NOMINATIONS OF FREDERIC A. EIDSNESS, JR., AND RITA M. LAVELLE

HEARINGS

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

THE NOMINATIONS OF FREDERIC A. EIDSNESS, JR., TO BE ASSISTANT ADMINISTRATOR FOR WATER, ENVIRONMENTAL PROTECTION AGENCY, AND RITA M. LAVELLE TO BE ASSISTANT ADMINISTRATOR FOR SOLID WASTE AND EMERGENCY RESPONSE, ENVIRONMENTAL PROTECTION AGENCY

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NOMINATION OF FREDERIC A. EIDSNESS, JR.

MONDAY, MARCH 15, 1982

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, D.C.

The committee met at 11:15 a.m., in room 4200, Dirksen Senate Office Building, Hon. John H. Chafee presiding.

OPENING STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator CHAFEE. Good morning. If everyone would please take their seats, we will ask Mr. Eidsness to come up to the witness table.

As you know, this is the confirmation hearing for the Assistant Administrator of EPA in charge of water programs. The nominee is Frederic A. "Eric" Eidsness, Jr., from Colorado currently. And the position that you are nominated for is an extremely important one. You have the responsibility for carrying out the Clean Water Act, the Marine Protection, Research and Sanctuaries Act, and the Safe Drinking Water Act.

Congressional responsibilities for these statutes come under the jurisdiction of this committee. The body of environmental law in each of these statutes is important. We forget that water is the basis for life itself and should you be confirmed, it will be your responsibility to make certain that the national effort to clean up this Nation's water continues forward.

We have a significant program in this effort and the committee expects that program to continue. You and I have met and discussed some of the challenges that you face and I am satisfied that you are equal to the task.

This position has been vacant for over a year and I hope we can speed this process along now that we reached this point. Certainly everyone in this committee will press the matter.

The junior Senator from Colorado, Senator Armstrong, wishes he could be here this morning to introduce you but he has been detained in the Budget Committee. He asked me to note his unavoidable absence, but sends his support for the nomination.

We have also received many letters in support of your nomination and I will make those a part of the record of this hearing. (See p. 17.)

Mr. Eidsness, welcome to the committee. In my capacity as chairman of the Environmental Pollution Subcommittee, I expect to be working closely with you. Members of this committee have always had an open and candid relationship with whoever occupies the position which you are nominated for. Should you be confirmed, and I am

confident you will be, we expect to have that same close relationship with you.

Senator Stafford, the chairman of the full committee, was unable to be here this morning at this time—he is attending a gathering at the White House—but he will make every effort to appear, he anticipates, around 11:30 or a quarter to 12. He has a statement this morning which welcomes you and I would urge you to take a look at his statement. We will provide a copy for you and also put the Senator's statement in the record.

[The statement follows:]

OPENING STATEMENT OF HON. ROBERT T. STAFFORD, U.S. SENATOR FROM THE STATE OF VERMONT

Senator STAFFORD. Good morning. I wish to welcome before the committee this morning Mr. Frederic Eidsness, who has been nominated by the President to be Assistant Administrator of the Environmental Protection Agency for Water programs.

While this committee in earlier years was best known for its work for highways, dams, and in support of local public works, over a decade ago its efforts toward clean air, clean water, and the safe disposal of waste made these environmental concerns of at least equal importance—if not at times the primary work of the committee. Since enacting those basic environmental protection measures, this committee has enjoyed a special relationship with the Environmental Protection Agency. In fact, most of the programs the Agency administers were drafted in this very room.

During the last year, that relationship has developed under changing leadership and with a fresh set of players. Nearly 1 year ago now, on April 3, 1981, the committee received the nomination of Mrs. Gorsuch to be Administrator of the Environmental Protection Agency and that nomination was approved by the Senate on May 5. In early July we received the nomination of Kathleen Bennett to be Assistant Administrator of EPA for Air, Noise, and Radiation, confirmed by the Senate July 31. More recently, at the end of January, the President nominated Frederic A. Eidsness to be Assistant Administrator of EPA for Water.

We were glad to receive the nomination, for certainly the continued implementation and effective administration of the Clean Water Act—commonly known as Public Law 92–500—is of no less importance than clean air, and constitutes a crucial part of the work of the agency.

Mr. Eidsness, your stewardship will be over the Nation's waters. It will be your responsibility in some places to clean waters up, and in other places to prevent their deterioration. Most importantly, it will be your task to provide the public a clean and safe supply of drinking water, as well as general water quality for the Nation that is sufficient to protect the public health.

You are entrusted with a great responsibility, as are all the assistant administrators of the Environmental Protection Agency. The environmental movement had widespread great public support in the 1970's when many of these laws were drafted. It is this Senator's contention, which has been borne out by public opinion polls, that broad and deep support for environmental goals continues.

I am sure I speak for all members of the committee when I say we look forward to building upon the good working relationship in water established this last year with Dr. John Hernandez. The committee expects to be kept fully and promptly informed of the agency's plans, activities, and decisions in this field, and we trust your stewardship will be characterized by aggressive pursuit of our Nation's water quality goals.

Senator CHAFEE. We are delighted that the ranking member of this committee is here, the former chairman and distinguished partisan for the environment, a man who had a large hand in the authorship of the statutes with which you are dealing with. I am referring to Senator Randolph of West Virginia.

Senator, we are delighted you are here and welcome any statement you might have.

OPENING STATEMENT OF HON. JENNINGS RANDOLPH, U.S. SENATOR FROM THE STATE OF WEST VIRGINIA

Senator RANDOLPH. Thank you. I think you underscored the importance of the position and a nominee that we can feel very comfortable with.

As we consider the nomination of Eric Eidsness to be assistant administrator of EPA for water, I think that the important word is "water," as you stressed it this morning. It is the fundamental source of life in the world.

As Assistant Administrator of EPA for water, you, Mr. Eidsness, will carry this responsibility with a feeling that there is plenty to be done but that you are ready, with the cooperation of others, to do the job and you will work with the background of legislation that has become law through this committee.

What do you think of bottled water?

We have water in West Virginia that is bottled and sold here in Washington, D.C. There are those other varieties from Arkansas and from Maine. What about bottled water, is it better water than that which would come from a faucet here in the Dirksen Senate Office Building?

Mr. EIDSNESS. I assume you want an answer to that question and I will try to give you one. I will take water whenever I can get it, provided it is clean and potable and safe to drink. I have never had the opportunity of drinking bottled water from your State, but I am sure it is excellent water. I am sure the water that we drink from the faucets of the Dirksen Senate Office Building meets the national safety standards and I am sure water from your State does as well.

Senator RANDOLPH. I think that is an overall answer.

Senator CHAFEE. I thought he covered all bases. It was a very skillful answer.

Mr. EIDSNESS. That is a tough question, really.

Senator RANDOLPH. Mr. Eidsness, you have an extensive background in these areas that are essential to the job, the task, the challenge for which you have been nominated. You worked in the environmental area in a way that gives you the background of a local planning official and a consultant to the Government and to industry on water pollution control matters.

The members of this committee take seriously the responsibilities that we have. We must consider very carefully Presidential nominations, this one as well as others, in the Environmental Protection Agency.

We do know that program budget cuts in recent years have not caused us to lessen our determination. I am not saying dollars can always do the job, because we have a commitment within this committee, and I hope within the Congress, that there is a national priority to the work that you will be doing as well as others in EPA.

And so, as we think in terms of, perhaps, not the lessening, but the tightening of these programs. They can work sometimes better with tightening. We want to have a review process, a close scrutiny which always takes place when a committee has generated a law, that Congress brought actually to being with the President's signature. But we have a responsibility to look very carefully, not just over your shoulder but to look at the record that is being made.

We have been thinking about this Lewis Harris survey—I have been very interested in it. As you know, it was taken last summer—which indicated that Americans oppose the weakening of the Clean Air Act, and that was by an 86-to-12 margin. I am not saying that was correct or incorrect, but it certainly is an expression of opinion.

Now, even more to the point, as you come before us today, that same poll showed that the American citizens were opposed to relaxing water pollution standards by a margin of 93 to 4. So, if they were to choose between air and water, their concern was even more for the cleanliness, purity of water. I am not talking about the edge one way or the other, but it is very significant the American people so responded.

That was encouraging to me and others with our efforts to reduce air and water pollution. They were undertaken in a rather massive scale at the beginning of this committee's work more than a dozen years ago, certainly more than 10 years ago, but they must continue. And this poll indicates that there are great numbers of the American people who are thinking about the vitality of an America that can be lessened, that can become negative, if we fail to have clean, pure water.

I am very happy to join you, Senator Chafee, in this hearing. I would be glad, perhaps, to ask a question or two after you have made your statement. I hope you will spell out exactly what the program or programs are that you will administer under your jurisdiction. And again, we are delighted, with the presence of the nominee but it has long been the practice, I think the good practice, to have the family members introduced.

Jody, would you stand please. We are happy to have you join your husband today.

And then your parents are here, and that is Bill and Canty.

And then you have your aunt and uncle, Joan and Web Lockwood, would they stand.

I know that all the members of the committee, even those who are not present, will want to recognize on the record when they read it, as you being here, the nominee, but also the members of the family. It is so good to have people believe in you even before the hearing takes place.

Senator CHAFEE. Thank you, Senator Randolph. And I think the points you made about the difference between heavy responsibility and responsibility—I think I would look on this as a joyous responsibility, great responsibilities that you have in this Assistant Administrator's position that you are nominated for. It cuts right across some of the biggest programs we have, particularly, of course, the Clean Water Act which consumes the Environment and Public Works appropriation, exclusive of the superfund which is a separate fund onto itself, but the Clean Water Act and the construction grants program which has consumed by far the most money that this committee has authorization over.

So, why don't you go ahead with your statement, Mr. Eidsness.

STATEMENT OF FREDERIC A. EIDSNESS, JR., NOMINEE TO BE ASSISTANT ADMINISTRATOR FOR WATER, EPA

Mr. EIDSNESS. Thank you, Senator Chafee and other distinguished members of the U.S. Senate Committee on Environment and Public Works. It is a significant honor and pleasure to appear before you today as President Reagan's nominee for Assistant Administrator for Water in the Environmental Protection Agency. I feel it is a position for which I have prepared all my life.

I am a native of Florida and have spent my life on, in, under and around water. My deep appreciation for water as a life force is shown both by my professional and personal pursuits. As a former naval officer and as a water quality engineer, I have devoted the last 15 years of my professional life to water quality and water resource management issues.

From any early age, growing up in a rural area of the State of Florida, my life was oriented to many water-related activities: from fishing trips with my father in spring-fed rivers—to scuba-diving along Florida's coral reefs—to midsummer night skinny dipping in the favorite sink hole. As a high school boy in New Hampshire, I remember packing across the frozen surface of Lake Squam in subzero weather to record soundings that were used to map the region. In another cartographic expedition years later, I explored and measured miles of the Grand Canyon region of Arizona whose very existence is a consequence of the natural erosion carved by wind and water. Only 2 years ago, I experienced the thrill of navigating 225 miles of the Colorado River in a kayack, including 168 rapids in the same region. You really have to love water to do that.

I vividly recall midwinter scallop harvesting in Booth Bay Harbor, Maine, exploring sunken cities in the Aegean Sea, and the skeletons of naval war ships lost in the World War II conflict in the Philippines. These experiences and the enjoyment and education that they have brought me are all possible because of clean water. Consequently, clean water and the laws that protect it, are subjects I view with great seriousness and concern.

I view with equal concern the health of our economy and the important role a strong economy plays in determining the quality of life of my children and their children to come. I see an inextricable relationship between a healthy economy and our willingness as a people to invest our dollar resources for environmental protection. That

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relationship is a direct and not an inverse one. A strong economy and a continual commitment to environmental protection go hand-in-hand.

The key to achieving both, in large measure, lies in returning to some basic principles; accountability in government, identifying and solving problems closest to where they exist, good science, and the debate of costs and benefits amongst those who pollute and those who benefit before a commitment to dollars or environmental resources is made.

It is my commitment to environmental quality and a strong economy that brings me before you. It is my firm belief that the President and Administrator Anne Gorsuch share these commitments. That is why I seek this office at EPA with this current administration.

My agenda for the Office of Water, should I be confirmed by the Senate, is straightforward and I would like to state it for you:

"To manage more wisely and effectively the resources in the water program areas to protect and enhance water quality, and to insure clean, potable drinking water; and to institute a standard of conduct that is characterized by renewed professionalism and meaningful and cooperative working relations with States, local governments, and the regulated community."

I am fully cognizant and appreciative of the seriousness and dedication with which this committee and the Senate goes about the task of reviewing the qualifications of Presidential nominees. Likewise, I believe that I am fully aware of the challenges that will face me if confirmed as Assistant Administrator for Water. I am familiar with many of the issues that must be confronted as this administration continues regulatory reform efforts and that may be confronted as part of the process of reauthorization of the Clean Water Act, the Safe Drinking Water Act, and the Marine Protection, Research, and Sanctuaries Act.

I fully support the concept of providing more flexibility to States through the administration's regulatory reform program. At the same time, I also recognize that the Congress, this committee in particular, placed major oversight responsibilities on the EPA. I am prepared and qualified to accept both the challenges and responsibilities that come with this position. Let me briefly review my qualifications.

I began my career in pollution control at the county level in Palm Beach, Fla. My experience at the county health department gave me an appreciation for the overriding need to insure adequate protection of public health. It also taught me to understand and appreciate the institution of the local health department, which is the last bastion of public health protection if and when all other Government institutions fail to act.

From there I went into the U.S. Navy and served 13 months with an underwater salvage unit along the rivers and harbors and coast of South Vietnam. Let me assure you that engaging in combat and other hazardous duty forces a person very quickly to determine the right way to do things. To become involved in ritualistic fumbling can be fatal. It is a lesson in reality that I shall never forget. My experience in the Navy taught me the value of organizational structure and chain of command, delegation of responsibility, and clear direction which are essential management principles. Most importantly, it taught me the significance of accountability.

When I left the Navy, I went to work at EPA's regional office in Atlanta in the construction grants program, where I authored one of the Agency's first environmental impact statements on a construction grant project. I also managed the development of an impact statement on ocean outfalls and other methods of wastewater disposal in south Florida. On several occasions I made ocean bottom dives to personally assess the physical integrity of outfall lines and record the impact of untreated wastewater discharges on the marine environment. It was an opportunity to learn the Agency programs, to work both at the regional and headquarters levels, and to experience firsthand the inner workings of the Federal Government.

My next position as a consultant with Arthur D. Little in Cambridge, Mass., allowed me to manage major interdisciplinary environmental impact studies for industrial and governmental clients. I also coauthored a management analysis study of the New York State/EPA wastewater treatment facilities construction grants program and was heavily involved in such considerations as analyzing alternatives to accelerate the program.

I received my most extensive training in dealing with the complex social, political, and technical aspects of implementing major Federal environmental laws as Director of air and water quality planning of the Larimer-Weld Regional Council of Governments in Loveland, Colo. Besides the ordinary departmental reorganization, planning, budgeting, and workplan development, I was broadly responsible for developing an acceptable 208 areawide waste treatment management plan. Working with an 81-member citizen's advisory committee and coming up with a plan to please 33 municipalities, 2 counties, the State, and EPA, was an invaluable lesson in getting the job done in the difficult area of local politics.

This experience helped me further develop my skills as a communicator, mediator, and a manager, all essential qualifications for the position of Assistant Administrator for Water. It was also a valuable experience in dealing successfully in a local arena with a multitude of complex issues and legal requirements of the Clean Water Act and the Clean Air Act.

The success I refer to is measured by the degree of continued local political support which is evidenced in part by a sustained financial commitment to locally implement a chemical and biological water quality monitoring program to insure adequate water quality protection is provided in the area.

On leaving local government, I once again joined those who make a living in the private sector. As a full partner in a management consulting firm, I shared in the responsibility of managing the firm. I learned the importance of advanced planning for the use of resources, appreciation for teamwork, employee relations, and attention to detail. Profits or losses were measured directly in terms of the fruits of our labor or financial liabilities. This sense of reality in the private sector is one I bring to the Federal Government establishment.

Much of my company's consulting directly prepared me for the Assistant Administrator position. For example, I was responsible for developing a statewide plan for managing onsite wastewater disposal systems. That plan is now being implemented. This experience reaffirmed my belief that our ability to clean up the environment is not

limited by our technological know-how, but by the willingness of our local and State government institutions to accept basic responsibilities.

I was also responsible for developing financial planning guidance for local elected officials engaged in planning wastewater systems. My years of experience in the construction grants program reinforce my view that the root of many of today's problems with the construction, operation, and maintenance of EPA funded wastewater treatment systems, lies in inadequate local attention to financial and institutional details, which is in large part an outgrowth of too many Federal regulations and too much funding.

These are examples of the experiences that have prepared me for the position of Assistant Administrator for Water in the Environmental Protection Agency. When confirmed, I will set my agenda to meet this administration's goal for effective environmental protection through better management and better use of our financial resources.

That is the conclusion of my prepared statement, Senator.

Senator CHAFEE. What do you mean, Mr. Eidsness, when you say, "My years of experience in the construction grants program reinforce my view that the root of many of today's problems with the construction, operation, and maintenance of EPA funded waste water systems, lies in inadequate local attention to financial and institutional details, which is in large part an outgrowth of too much Federal regulations and funding"?

What in the funding did you find a problem?

Mr. EIDSNESS. Senator, I think primarily the large percentage of Federal funding participation in some instances has had the effect of lulling some communities into thinking that they had minimal if any financial liabilities——

Senator CHAFEE. You are talking about 85 percent?

Mr. EIDSNESS. That is correct.

Senator CHAFFE. And I suppose that when you are talking about on-site wastewater disposal systems, was that an innovative and alternative approach in getting 85 percent?

Mr. EIDSNESS. In the case of this particular study, Senator, the issue was not so much the funding to implement innovative and alternative systems, it was more an issue of how could local and State government strengthen their institutions to properly regulate and design the location of any kind of system.

What we learned was while innovative and alternative systems need to be installed in many instances, the overriding concern was to get a body of local codes and ordinances and institutional capability to be sure that such systems were properly designed and installed.

Senator CHAFEE. I was referring specifically to the on-site wastewater disposal systems. I understand that you were responsible for developing a statewide plan for these. What came from it? Did some Colorado municipalities or districts have I&A?

Mr. EIDSNESS. There is a point of clarification needed. The State actually was Wyoming, and I failed to point that out.

The primary initiative that is being taken right now is a revision of the State regulations governing the use of innovative and alternative and other on-site technology which pledges the powers of both the State Environment Quality Act and the State health laws to allow local government to play a stronger regulatory enforcement role. That was

the key feature of the plan. The ultimate result of this plan I think will be that in the State of Wyoming, you will see a growth of health departments locally—since some areas do not have any health departments—as well as a strengthening of the ones that are there in order to properly review innovative technologies for their application in various areas throughout Wyoming.

Senator CHAFEE. You know that we reduced the Federal funding in the act we just passed?

Mr. EIDSNESS. Yes, sir.

Senator CHAFEE. Although EPA didn't suggest it. What do you mean when you say, "and the debate of costs and benefits"? Can you explain that a little bit? I am referring to the Clean Water Act.

Mr. EIDSNESS. That is a good way to do it, in connection with the Clean Water Act.

Ecology does not lend itself to precise predictability. I think that is just a reality that we have to face.

Consequently, the Clean Water Act as well as other environmental laws, establishes both technological and scientific criteria as well as due process to provide a forum for debate, discussion, and peer review of that science, technology, and economic analysis which leads ultimately to the adoption of a regulation.

I think that the construction of the Clean Water Act is more than adequate to provide the science and the debate of that science before the public which benefits and before those who pollute. And that debate, I think, does nothing more than to strengthen the scientific and economic basis upon which the ultimate rulemaking body of decisionmakers, whether it is State water quality control or the EPA, makes the final decision.

Senator CHAFEE. What are your views on having the EPA enforcement program based on the water quality?

Mr. EIDSNESS. That is an excellent question, Senator. I would like to answer that question in somewhat of a different context.

The Clean Water Act, as you know much better than I, establishes three bases to regulate pollutants: One is the 404 dredge and fill permit requirements; the second one is the technology based requirements for municipal and industrial discharges; and the third one is the water quality based standards which are the primary responsibility of the States.

As EPA proceeds to develop its final regulations for the control of industrial dischargers and as municipalities come closer to getting into compliance with the technology-based requirements, then water quality based considerations become more important to us.

As you know, the law envisioned that there may be a case where the technology requirements are insufficient to protect water quality from an enforcement point of view. When and if a permit is written based upon water quality to protect water quality, the Agency should vigorously enforce those who violate the conditions of those water quality based permits just as they would against those who violate the technology-based permits.

Senator CHAFEE. Should not the technology standards first be observed by the discharger or should the EPA levy the technology requirements on the discharger? I am thinking of industrial discharges.

Mr. EIDSNESS. Yes, sir, I think it is sort of a mixed bag. It is a question of who acts first. In the case of water quality standards, the States are responsible for those in regulating dischargers under their system of standard. The EPA, in turn, is responsible for establishing the technology-based requirements.

I think that the Agency definitely should complete getting out the requirements for technology-based standards and writing permits on that basis. But where the State in consultation with the EPA has identified that a technology-based permit is not sufficient to protect the water quality, then either party, whichever is the permitting authority, should write permits on the basis of water quality.

Senator CHAFEE. First move through the technology standards?

Mr. EIDSNESS. Yes, sir, I believe that is an essential component of the law, as I understand it.

Senator CHAFEE. You see a minimum water quality standard.

Mr. EIDSNESS. I think I can answer that question in two ways. I am sure that as the Agency proceeds to review water quality standards regulations and more public attention gets on that issue, the answer may become even more clear through the process of public debate. But the answer that I have is twofold: First, the Clean Water Act establishes an interim goal of fishable, swimmable water suitable for fishing and swimming, wherever attainable. I think one could argue "wherever attainable" was in effect on the floor.

The other way of answering that question is in looking at EPA's policy concerning antidegradation of water quality which is currently a part of EPA's water quality standards regulations. This policy in effect says that whatever quality of water you have now can't get any worse in terms of comparing the use that is designated under State water quality standards. In a sense this is the safeguard in the law and the regulations to prohibit any further degradation.

Senator CHAFEE. What has me worried, Mr. Eidsness, there seems to be a return in EPA to the water quality base programs and we are getting the suggestion that the technology-based standards are no longer as important or to be pursued with such vigor, and that is what worries me.

Mr. EIDSNESS. Let me be as clear as I can in terms of my view, Senator, which is a view I will carry with me if confirmed by the Senate as the Assistant Administrator for Water.

I believe that the Agency must, should, and will move vigorously to complete the complex process of promulgating technology-based requirements for industry—primarily we are talking about BAT, best available technology for industry. But once that is done, Senator, and once these technologies are in place, the question then becomes one of where do we go from here to insure adequate protection of water quality?

The law provides water quality standards as the vehicle to do that, as I understand the law. I think that looking over the long haul, water quality standards have an opportunity to provide a consistent measure against which we can determine the extent to which we can protect the environment through the Clean Water Act.

Senator CHAFEE. Senator Randolph.

Senator RANDOLPH. Thank you very much, Mr. Chairman.

I want to go back for just this moment to say to you, Mr. Eidsness, that an indication of the concern of members of this committee was the fact that a part of the Water Quality Act authorized in 1972, we established a National Commission on Water Quality with which you are familiar.

Mr. EIDSNESS. Yes, sir.

Senator RANDOLPH. We had not only Members of the Senate and House represented, but also the public. I recall the very knowledgeable helpful work that was carried on by the Chairman, Nelson Rockefeller, who dedicated much time to this assignment as did those of us who were privileged to have the opportunity to serve on the Commission.

EPA has initiated a review process of the Water Act and that is to culminate in recommendations from the Office of Water. That goes, I believe, in early April, to the Administrator?

Mr. EIDSNESS. That is a schedule that I believe is still in effect, yes, sir.

Senator RANDOLPH. I don't know whether you have been a participant in that process, but do you anticipate that substantial legislative or administrative changes will be suggested?

Mr. EIDSNESS. Senator, it is difficult for me to answer that if for no other reason than the Administrator is the one that makes that decision within the EPA.

From my point of view and my experience with the Safe Drinking Water Act, I believe the law is fundamentally sound and there may be some fine tuning that ought to be considered and debated in the Safe Drinking Water Act but I can't envision any major fundamental changes to that law being proposed by this administration from what I have seen thus far.

Senator RANDOLPH. Small communities and water systems historically have difficulty meeting the monitoring and the recordkeeping and the notification of violation requirements under the Safe Drinking Water Act.

You may have suggestions that will help us, certainly help me, so that there would be a good compliance record.

In your opinion, do we have adequate funds available to assist the States in carrying forward the responsibility of the act? West Virginia is a very rural State, as you know, and there are many others in this country, and this is particularly important to me and to many others. Would you respond?

Mr. EIDSNESS. Yes, sir, I would be happy to.

With respect to the question of resources, I believe that the Agency has adequate resources that they have requested for the coming fiscal year to meet its responsibilities in the water programs area. And I say that broadly and I say it in this context. I have established a lifelong track record in the private sector of bringing projects in on time under budget and making the client happy, and I would not accept this position if I felt that this job and the budget and resources I would have to operate with were insufficient to maintain that track record.

Now, with respect to the specific question of problems that small communities face, I think that one of the first and highest priorities

that I would have, if confirmed, would be to meet with the people in the Office of Drinking Water to review the current strategy that EPA has developed with the States to address this question of the adequacy and ability of small communities to meet their monitoring, reporting, and their sampling requirements.

You probably know better than I, because of the State which you come from, that small communities historically have always had difficulty meeting regulatory requirements of this nature, whether they are Safe Drinking Water Act requirements or requirements under the Clean Water Act, largely because of the low operating budgets that they have, their difficulty in getting trained personnel, and keeping these trained personnel. But, I think that much can be done and it will have to be a continued, sustained effort to provide some training to and technology transfer to these small communities to make their staff people and their operators, aware of the importance of the sampling and reporting requirements of the Safe Drinking Water Act. I think this can be carried out through professional associations such as the American Water Works Association and others who are really geared up to do that sort of thing and it is something I would work to instigate or continue in the event there are some States that have such programs in place.

Senator RANDOLPH. I want you to know that I believe that members of this committee, certainly I know many members of the committee have expressed the feeling I have. We want no changes in the basic policies of the Clean Water Act. They are there and should remain there. There are, as you indicated, fine tuning, that word you used was appropriate, there are certain modest adjustments, if I use that word correctly, but we have to be very, very careful that we do not have any policy creeping in to the EPA at the present time and I am not saying there is, but there are rumors that seem to indicate that States are having problems because of EPA programs in their water quality standards.

I don't say that is a fact. It has been alleged practically that is the case in Colorado. Certainly you are familiar, by your record, with the waters of Colorado.

What would be an appropriate classification for, let's say, Colorado streams on the ongoing review of that problem, which apparently is a problem?

Mr. EIDSNESS. Senator, the question of what classification is appropriate in my view ought to be determined on the basis of evidence presented that relates to a specific water stream or water body to which you are applying that classification.

Colorado, I think, has been a leader among the States in trying to classify waters based upon the actual or potential uses that could be attained for their water bodies. Clearly those classifications would vary from location to location depending upon the use that might be made of those waters.

I think that in terms of the broader questions of whether water quality standards have any utility, whether States can develop and manage their standards with or without EPA assistance, I think that so long as we recognize that water quality standards of the past sometime have been one dimensional in their construct and in their application and that they are, in a sense, too simplistic and need to become

three dimensional, then we will find a willingness on the part of the regulated community and the public generally to work very carefully with the State and EPA in developing and implementing such standards that reflect the three dimensional world in which we live.

Senator RANDOLPH. I just checked your statement again and I noted that you had an involvement with section 208 which is the areawide waste treatment planning provision. It is my continuing belief that areawide planning is a critical part of decisionmaking in treatment plant investment and we added section 205 today in the 18th amendment.

Do you have any views about the areawide Agency implementation under section 205?

Mr. EIDSNESS. Well, that certainly is a fair question considering, as you pointed out, that I had a lot of personal involvement in that provision of the law at the local level.

Let me be as forthright as I can on my views of the success or potential for section 208.

First of all, and believe me this comes from a very local perspective—I was weaned, in effect, in the Clean Water Act, at the local level.

Section 208 provides a very important handle for local governments to voluntarily band together to develop an institutional and technical capacity to play a substantive meaningful role in the development of goals and programs to meet those goals for the waters of their States.

Section 208 doesn't require them to do this, but it provides them an opportunity to do this if they see it as such. I think that a lot of the criticism that has been heard about 208 in the past is not justified in my mind in the sense that regional planning organizations and local governments really did not have much firsthand experience in the Clean Water Act back in 1975 when this program got off the ground, so they had to do a lot of catching up to understand how the Clean Water Act was to work.

I also believe that local governments have an opportunity under 208 to go back to the basic questions posed in the Clean Water Act on what we are trying to protect. What is the quality of the water we want here? And I think that agencies that focus on those questions are going to find that they will have a very strong influence over the decisions that are made by the States and the EPA in the future.

The opportunity for funding under 206(j) is there for them, as you well know. The local areawide agencies, need to meet with their State pollution control agencies and determine what questions have to be answered—Do we need to do some field studies? Do we need to do waste computation? Do we need to plan for treatment facilities? Who can best do that in terms of who does it most effectively?

It is that kind of discussion that will determine the distribution of those funds to carry out the provision of 205(j). I think EPA's role in that should be minimal and I think that is what Congress intended, and correct me if I am wrong, Senator. But EPA should leave that decision up to State and local governments.

Senator RANDOLPH. Senator Chafee, I have a final question. I am grateful that you allowed me to question the witness at some length.

The management of treatment plant sludge, I think that is a major issue that faces us. If you are confirmed, you would be responsible

for ocean dumping, the regulatory program of that effort as well as the Clean Water Act. Perhaps you have suggestions about what might be done if policy dealing with comprehensive sludge management has to be set in effect.

Mr. EIDSNESS. Yes. I have some views on that subject and I will share them with you.

I have always believed that pollutants in the form of sludge are resources waiting to be rediscovered, and I have also believed that as we acquire knowledge on how to do that, we have to carefully balance the alternatives of how we manage our sludge, whether it goes to the ocean, whether it goes on land and so forth. If confirmed, I would place it as a high priority for EPA to develop a sludge management policy and sludge guidance which would provide information to municipalities primarily to make reasonable determinations on the use, reuse or disposal of their sludge in the various media, whether it be in the ocean, whether it be incineration or whether it be on the land. And one thing I would strive very hard to do is to be sure that whatever regulations the Agency has in place, whether they be under RCRA or under the Clean Water Act, that one set of regulations does not force the municipality to go to another media on the sole basis of economics. Regulations should allow for a true balancing of the media for management or disposal of sludge.

Senator RANDOLPH. Again, Mr. Chairman, I am impressed with the nominee and his responses and also the background of his experience.

Senator CHAFEE. Senator Randolph, I believe it is the chairman of the full committee's intent to take up the confirmation of the nominee when we gather for our next clean air markup, which will be tomorrow if we have an adequate number in attendance.

Mr. Eidsness, tell me a little bit about your view on 404.

Mr. EIDSNESS. Senator Chafee, 404 is under the Clean Water Act, as you well know, and I view that the overriding responsibility of the Assistant Administrator for Water, is to set national water policies with full consultation and approval of the Administrator and Deputy Administrator and to oversee that national policy, and that would include, of course, 404. I would place it as one of my highest priorities once confirmed and sworn to office to revisit the Agency's implementaiton of 404 and to be sure that it is meeting the intent of the law and the regulations which have been developed by the Environmental Protection Agency.

As you know, the responsibility for developing what is called 404 (b)(1) guidance, which establishes the criteria that the Corps of Engineers uses to administer the permit program, rests in the Office of Water and is the responsibility of the Assistant Administrator.

Senator CHAFEE. You mentioned that you grew up around the water, on the water, in the water and under the water in Florida.

Mr. EIDSNESS. I am a very aquatic person.

Senator CHAFEE. I want your sense of feeling of the importance of the wetlands to the Nation and also your comment on the suggestion that this program is overregulated and indeed goes too far, that it shouldn't extend into the drainage of fields, for example, way beyond nonnavigable waters.

I am curious as to your reaction to some of those suggestions.

Mr. EIDSNESS. They certainly are not suggestions, Senator. The geographical jurisdiction question is one which has been thoroughly debated and decided, in fact, by promulgation of the 404(b)(1) guidance document that the Corps of Engineers follows in making determinations on permit applications.

But from a personal point of view, and given my background as a Floridian originally. I view the wetlands as a great and vitally important resource to this country and the world, and if there are any improvements to be made in the 404 permit program, I think the first place we should look is in terms of the administrative aspects of the program. Are there ways in which the time can be shortened to process applications? Are there better ways, quicker ways, to resolve conflicts among Federal agencies that have an opportunity in reviewing the program or the permits?

I don't see any evidence that suggests that there should be a retreat from the current implementation of the 404 program with respect to protecting the wetlands.

Senator CHAFEE. What exactly in the organization structure of EPA is going to be your responsibility for 404? Mr. Cahill has those responsibilities currently under him and he doesn't fall in your chain of command, does he?

Mr. EIDSNESS. No, sir. He works for the administrator organizationally.

Senator CHAFEE. Is there any suggestion to bring that back under your jurisdiction, your responsibility?

Mr. EIDSNESS. I have not heard of any discussions within the EPA concerning that question and, of course, the question of organization is one which would ultimately be decided by Anne Gorsuch, the administrator. But from an overall policy perspective, Senator, my concern is no so much which of the offices or departments within EPA administers the program; it is a question of whether the program is being properly carried out and the requirements of the law are being met.

Senator CHAFEE. It doesn't do me much good to ask you about your views on 404 if you have nothing to do with it.

Mr. EIDSNESS. I do. As a matter of fact, the Assistant Administrator of the Office of Water is a signator on the memorandum of understanding with the Corps of Engineers over administering the program. So that suggests that any changes in operating procedures and relationship between the Corps of Engineers and EPA would also require my concurrence if confirmed in this position. Also my job would make me responsible for developing the guidance which, of course, has already been done and insuring that it is properly implemented.

One thing I should point out as a clarification; the vast majority of 404 permit reviews conducted by EPA are done in the regional offices and only those controversial permits which have been elevated to Washington through the corps' own administrative proceedings are the ones dealt with by EPA headquarters.

Senator CHAFEE. I am confident that the attiude of the person in charge, whether it be Mrs. Gorsuch, Mr. Cahill or you, in a roundabout way has a great influence on what the regional offices do.

Are you familiar with combined sewer overflow, CSO?

Mr. EIDSNESS. Yes, sir.

Senator CHAFEE. We put some money for that program in the authorization of $200 million in the 1983 budget. I am interested in it and so are many of the members of this committee. It is not something perhaps you have dealt with coming from Colorado, but it is something that is a great problem for those of us that have older cities within our States. So, I would like you to be sensitive to the CSO difficulties.

Mr. EIDSNESS. Senator, when I was with the EPA in 1970 I got involved in those kinds of issues in the Southeast. Atlanta, for example, has a combined sewer overflow problem. I am fairly familiar with the technical aspects of the issue as well as the economic cost aspects and you can be assured that I will watch diligently the implementation of that program under the new title 2 construction grant program which was passed by this committee and Congress.

Senator CHAFEE. Fine.

Do you have any conflicts of interest that you know of or any matters that could be construed as conflicts of interest if you should be confirmed for this job?

Mr. EIDSNESS. None that I am aware of. I have no conflict of interest. Now, whether I have some that can be construed is a question for others to answer, but I don't believe so.

Senator CHAFEE. Will you appear before this committee or before any committee of the Congress when you are asked?

Mr. EIDSNESS. Yes, sir, I will.

Senator CHAFEE. Fine, thank you very much for coming.

There is one thing I would like to remind you of, Mr. Eidsness, and that is as follows: I don't want you nor do any member of this committee ever want you to forget that you are going to work for an agency that is called the Environmental Protection Agency and the "P" stands for "protection", and so we look on you as one of the frontline soldiers in carrying out the protection of our environment and we hope you will carry this banner well.

Mr. EIDSNESS. I think you will see I will be a good soldier or a sailor, Senator.

Senator CHAFEE. Thank you.

[Whereupon, at 12:15 p.m., the committee recessed, to reconvene, subject to the call of the Chair.]

[The letters previously referred to by Senator Chafee follow:]

CH2M HILL
engineers
planners
economists
scientists

February 19, 1982

The Honorable John H. Chafee
Chairman
Subcommittee on Environmental Pollution
United States Senate
5229 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Chafee:

CH2M Hill is an international consulting engineering firm. Ours is the seventh largest such U.S. firm and has a staff of over 2,000 employees and approximately 35 offices worldwide. Since 1946, CH2M Hill has been providing clients -- governments at all levels (domestic and foreign) and various segments of the private sector -- with comprehensive services in engineering, planning, economics, and the environmental sciences.

While providing services to meet a broad variety of client needs, ours is an environmentally-oriented firm. This makes us very interested in public policy issues and programs affecting the environment and in the capabilities and qualifications of those charged with administering them. We believe that one of the most important positions within the Environmental Protection Agency is that of Assistant Administrator for Water.

CH2M Hill strongly supports and urges confirmation of Frederic A. "Eric" Eidsness, Jr. as EPA's Assistant Administrator for Water. Eric is someone known to many within CH2M Hill. We believe that he will be an outstanding Assistant Administrator. He brings to that position a much desired combination of technical knowledge and practical experience gained from prior service with both EPA and in the private sector. He is a hard working, articulate and responsible person with an unusual and important blend of knowledge, practical experience, multiple perspectives, and fair, reasoned judgement.

We urge prompt and favorable consideration of Mr. Eidsness' nomination by the Environment and Public Works Committee and the full Senate. We appreciate this opportunity to express our views with regard to this most important appointment.

Sincerely yours,

Dick Corrigan

Richard L. Corrigan
Vice President
Governmental Affairs

CH2M HILL
Governmental Affairs Office
1090 Vermont Avenue, N.W., Suite 560, Washington, D.C. 20005 202/289-0220

February 10, 1982

Honorable Robert T. Stafford, Chairman
Committee on Environment and Public Works
U.S. Senate
Washington, DC 20510

Dear Senator Stafford:

East Bay Municipal Utility District, serving over one million residents of the San Francisco Bay Area, and providing both water and wastewater service, is pleased to endorse the appointment of Mr. Eric Eidsness as Assistant Administrator for Water at EPA.

Mr. Eidsness' qualifications and understanding of the complex issues facing EPA are exceptional. He is committed to environmental protection and effective and efficient government and I urge your support for his nomination.

Very truly yours,

JEROME B. GILBERT

JBG:j 14C16

FAIRFAX COUNTY WATER AUTHORITY

8560 ARLINGTON BOULEVARD—P. O. BOX 1500
MERRIFIELD, VIRGINIA 22116-0815

FRED C. MOHN, CHAIRMAN
BILL G. EVANS, VICE CHAIRMAN
WILLIAM J. MADDEN, JR., SECY.-TREAS.
DAVID G. RUSSELL
WILLIAM M. WAUGH
LOIS SHARPE
NANCY L. SHANDS
ROBERT J. RANSON, JR.
WILLIAM F. POSTON

February 10, 1982

JAMES J. CORBALIS, JR.
ENGINEER-DIRECTOR
FRED P. GRIFFITH, JR.
ASSISTANT ENGINEER-DIRECTOR

TELEPHONE
703—698-5600

The Honorable Harry F. Byrd, Jr.
United States Senate
417 Russell Senate Office Building
Washington, D. C. 20510

Dear Senator Byrd:

I am writing to request your support for confirmation of the appointment of Mr. Frederic A. Eidsness, Jr., Masonville, Colorado, to the position of Assistant Administrator for Water U.S. EPA.

Mr. Eidsness has had a long history of involvement in environmental matters, including previous employment by EPA and employment in the private sector. He is especially well qualified to discharge the responsibilities of this position and enjoys endorsement of the appointment by the Water Utility Council of the American Water Works Association, of which I am a member.

Exhibits A and B herewith describe Mr. Eidsness' qualifications and philosophy concerning the proper role of EPA.

It is my understanding that confirmation proceedings are now pending in the Senate Committee on Environmental and Public Works. It will be appreciated if you would give this matter favorable consideration and inform the Committee of your support for the appointment of Mr. Eidsness.

Respectfully yours,

James J. Corbalis, Jr.
Engineer-Director

JJC/kwm
enc.

Excerpts from Qualifications Statement, F. A. Eidsness, Jr.

EXHIBIT A

SUPPLEMENTAL QUALIFICATIONS STATEMENT
Fredric A. Eidsness, Jr.
P.O. Box 87
Masonville, Colorado 80541 (Phone: 303/447-0970)

SPECIALIZATION:

Government organization management and operations in relation to federal and state environmental laws and regulatory programs; implementation of the federal clean air and water acts and the National Environmental Policy Act; conflict resolution; intergovernmental and public relations; sanitary engineering and water utility financial planning and policy setting.

PRESENT POSITION

Vice President and general partner with BMML, Inc., Boulder, Colorado. A Sub-S corporation providing management consulting services to local, state and federal governmental agencies, energy and private development companies in the area of: growth management; social and economic impact analysis and mitigation needs resulting from rapid growth in energy developing areas; public sector financial planning and policy setting; financial, institutional and organizational management requirements for implementation of the federal clean water act and other state and federal laws and programs.

EMPLOYMENT HISTORY

December 1978 to present: BMML, Incorporated, Boulder, Colorado

Vice president in charge of environmental management services. Share company management responsibilities with two other parties employed in the firm including: administrative and personnel policies; fiscal control; project management and budget control; business development; contracts negotiation.

Recent project management responsibilities and accomplishments include:

- Consultant to the EPA in Washington, D.C.; Regions IV, VIII, IX and X concerning institutional and financial requirements for implementation of water quality management control plans at state and local level for: urban storm water management; wastewater treatment facilities; agricultural pollution control; advance waste treatment requirements for municipalities. This project, which began in 1979, involves substantial direct technical assistance to local and state implementation agencies in locations throughout the country; workshops and training sessions for EPA employees, state and areawide pollution control officials to raise their awareness of the local issues barring implementation of clean water requirements.

This project has afforded Mr. Eidsness the opportunity to speak in depth with state and local officials throughout the country on problems associated with the EPA's Stuardship of the Clean Water Act and to overview and sometimes participate in the development of EPA national water policy and program strategy. Recent input into this process is exemplified by the attached letter (Exibit B) concerning the state-of-affairs EPA's national agricultural pollution control strategy.

- Consultant to the Wyoming Department of Environmental Quality concerning: development of a statewide program, including legislation, for effective management of on-site wastewater systems on a state/local partnership basis; financial planning procedures and workshops for local 201 construction grants recipients to help them understand the financial consequence of a major public investment and set public policy to help optomize these plans. This is a follow-on project where Mr. Eidsness, in 1979, played a key mediation role between various Wyoming State agency directors and local organizations which successfully led to the Governor's certification of the Wyoming water quality management plan to which all involved parties agreed.

  Under the current project, Mr. Eidsness has been the architect of new financial planning requirements in the 201 grants process and principal author of analytical tools (see Exhibit C). Through direct local technical assistance, he successfully developed an intergovernmental contract for the Rock Springs, Wyoming area regional wastewater facility and assisted elected officials and other participants in the Casper, Wyoming regional planning study, resolve cost sharing issues and intergovernmental requirements in a regional setting.

August 1975 to December 1978: Director, Comprehensive Planning, Larimer-Weld Regional Council of Governments, Loveland, Colorado.

Responsible for all physical planning and technical assistance activities of organization including water and air quality, resource conservation and recovery, transportation, land use and housing. At time of departure, had initiated or successfully completed the following activities: departmental reorganization planning including work plan development, budgeting, manpower allocations, scheduling; revisions to citizen committees by-law, administrative and personnel procedures; development of a five-year integrated and coordinated work program and grant assistance request to meet Federal requirements as designated areawide planning agency for above-named functions; authored the regional transportation control component of the Colorado State Implementation Plan (SIP) for Air Quality.

August, 1975 to September, 1978: Director, 208 Water Quality Planning: Broadly responsible for development of an acceptable 208 Areawide Waste Treatment Management Plan including: consultant selection; work plan development; citizen's advisory committee (81 members) support and direction; agency liaison with media and all federal, state, and local agencies; quality control of all technical reports; technical analysis and authorship of technical reports and papers; budgeting and manpower allocations; personnel management and performance evaluations; progress reporting to state agencies and EPA; overall program administration. 208 Plan was adopted by unanimous

vote of local governments (33 municipalities and 2 counties) in September of 1978, and adopted by the State of Colorado and EPA. Also responsible for an EPA Research and Development Grant concerning the development of a methodology for the technical, institutional, and financial feasibility of implementation of Best Management Practices for Irrigated Agriculture. This effort, including field sampling, test plots and farmer and public participation, was fully integrated into the 208 program.

At time of employment was fourth professional staff member of organization that subsequently relied heavily upon technical assistance from member local units of government and consultants to fulfill its obligations. Was immediate supervisor of one professional staff assistant and one secretary. However, relied upon self skills of friendly persuader, innovator, and manager to both maximize the use of professional staff members of local units of governments, public and private organizations (including Colorado State University, University of Northern Colorado, Kodak of Colorado, numerous water user associations, environmental organizations and others), and paid professional consultants to develop the necessary technical, economic, institutional, and financial information and analysis in support of a credible and acceptable 208 Plan. Consequently, had complete authority over COG staff and consultants to that end, and exercised that authority including contract negotiations (21 contracts), budgeting, contract modification including termination for cause and day to day personnel management. In short, utilized team of consultants and local government employees as extension of staff.

Performed department's own cost accounting where county accounting system was defective from the standpoint of effective project management. Received a favorable EPA audit of 208 grant in September of 1978.

Major accomplishments during this period included successfully challenging traditional eastern view of what is implementable under the Clean Water Act in technical, institutional and financial terms. To that end, co-authored numerous technical reports and provided written and oral testimony to the Senate Public Works Committee (Exhibit D) and the Colorado Water Quality Control Commission. The 208 program, under Mr. Eidsness' direction, was controversial and invoked charges by the Colorado Open Space Council to Senator Hart that the agency was using federal dollars to undermine the Clean Water Act and called for a congressional investigation.

Also, held positions of acting Executive Director of the regional agency for five months coinciding with the Big Thompson flood disaster and recovery start-up period. Was the author of a recovery effort reorganization plan aimed at strengthening the role of local governmental agencies and elected officials in the joint federal, state, local recovery act. The plan was adopted.

Authored, edited and processed a plan for attainment of air quality for the two county area under severe time constraints and inadequate data and analysis. The document (exerpts shown in Exhibit D) was written to protect local government perogatives to make land use and transportation decisions in the face of inadequate analysis demonstration benefits of costly controls and inadequacies in the state review and adoption process.

November, 1973 to July, 1975: Arthur D. Little, Inc., Cambridge, Massachusetts. Professional staff consultant with the Biomedical and Environmental Systems Section.

Principal participant in five major interdisciplinary environmental impact studies for private (industrial) and governmental clients of which the role in three was project manager. Proposed actions included: new port facility construction, Charleston, South Carolina; taconite mining - wastewater disposal/recycle system, Silver Bay, Minnesota; and new aircraft wing beddowns at three Air Force installations where noise exposure, public safety, and air pollution were significant environmental issues.

Consulted company-wide on matters pertaining to the National Environmental Policy Act (NEPA), generally at the strategy development, plan of study, and report review stages.

Co-authored a management analysis study of the New York State/EPA Wastewater Treatment Facilities Construction Grants Program. The purpose of the study was to develop ways to accelerate the project approval process and to identify and analyze alternative ways that such acceleration could be structured to maximize economic benefits, particularly with regards to increased employment.

Due to the internal management structure of the firm, was not administratively in charge of staff. Each professional staff member was expected to associate with others on case work as well as develop new case work for which primary responsibility was usually assigned. As a result of performance on EIS for Air Force "Beddown", was assigned case leader responsibility for two others. Consequently was responsible for performance of as many as 30 co-workers of a variety of professional disciplines, including air traffic safety, air pollution and dispersion modeling, noise pollution, socio-economics and others. In most instances professional case workers were senior members of the firm.

Wrote technical and cost proposals and developed business for the company. Left company to accept challenge with local government where there was both a greater opportunity to be innovative and to gain experience in environmental management at the local/political level.

November, 1970 to October, 1973: Federal Water Pollution Control Administration/U.S. Environmental Protection Agency, Region IV, Atlanta, Georgia.

Reviewed contract plans and specifications of wastewater treatment facilities; made determination of adequacy of treatment; determined the reasonableness of engineering cost estimates; inspected facilities to assess and report adequacy of operation and maintenance; inspected facilities during construction to insure conformance with contract plans; determined eligibility of facilities for which construction grant funds were being sought.

Authored the Agency's first Environmental Impact Statement (FIS) (Cobb County, Georgia). Subsequently supervised and participated in the preparation of nine draft and final EIS's for wastewater treatment facilities, interceptor sewers, and effluent disposal systems representing over $250 million in federal funding assistance to municipalities.

During period of EIS preparation was assigned to Surveillance and Analysis Division, Port Everglades, Florida Section, to co-manage preparation of generic EIS on ocean outfalls and other methods of treated wastewater disposal and to conduct field reconnaisance in that regard. At own initiative and in conjunction with Florida Ocean Sciences Institute and Florida Atlantic University, made several on-site surveys of raw and primary sewage ocean outfall discharges along the coast of south Florida to ascertain and photographically record aquatic conditions of outfall pipe, locations and functionability of diffusers and other pertinent information. Made several ocean bottom dives to depths of 60 to 90 feet to supervise survey and make personal assessment and evaluation. Later testified as to findings and observations at formal public hearings and written testimony for court test.

In conjunction with EIS work and to advance the state-of-the-art of environmental planning as it pertains to water quality management in urban-suburban areas, investigated and analyzed the economic and operational viability of the latest advanced wastewater treatment technology, disinfection methods, and effluent disposal methods including land application, well injection, and other forms of wastewater reuse and reclamation; construction practices including restoration of disturbed areas, siltation and erosion control; sludge and solid waste disposal and incineration; the interrelationships between interceptor sizing and location, land use supported by those facilities, and nonpoint pollution (urban runoff) potentially generated by future land use and the future maintenance of water quality standards.

Special assignment at headquarters to evaluate the application of Environmental Impact Statements to State Air Quality Implementation Plans and Transportation Control Strategies and recommend procedures for NEPA compliance in that regard.

Conferred with local, state, and Federal officials, professional consultants, construction contractors, public interest groups, and individuals to explain and interpret the laws, regulations, and procedures of the EPA. Co-chaired public hearings on EPA's draft EIS's.

Represented the Regional Administrator with the media on matters pertaining to EIS's.

Left EPA to gain experience in environmental management in the private sector.

December, 1968 through July, 1970: United States Navy.

Commissioned as Ensign following training at Officer's Candidate School, Newport, Rhode Island. Served thirteen months (June, 1968 through July, 1969) with an underwater salvage unit (USS Cohoes) operating along the rivers, harbors, and coast of the Republic of South Vietnam. Responsibilities included Supply Officer, Registered Publications Officer, Education and Training Officer, Officer of the Deck Underway, Gunnery Officer, and others. With a crew of 25 officers and men, served in every capacity possible at one time or another. Engaged in combat and other

hazardous duty frequently. Major accomplishments included keeping the crew fed and clothed and ship operationally prepared in the face of the 1968 Tet Offensive, broken supply lines and inefficient Naval supply system.

Served remainder of active duty at U.S. Naval Station, Treasure Island, California. Served as Educational Services Officer, Receipts and Transfer Officer, Executive Officer of Professional Rifle Company (riot control), Insurance Officer, Officer of the Day in command of all 23 military commands on Treasure Island, member of Administrative Field Board, member of jury to General Court Marshalls, acted as prisoner escort to Naval Marine Corps Prison, Portsmouth, New Hampshire.

As Officer in charge of Receipts and Transfers Division, was responsible for outfitting, obtaining orders and transferring 30,000 enlisted men to the fleet annually. Had direct supervision over approximately 40 military and civilian personnel in that regard.

Awarded the National Defense Medal, Vietnam Service Medal, Combat Action Ribbon, Meritious Unit Commendation, Vietnam Campaign Medal, and Navy Unit Commendation. Presently hold the rank of Lieutenant in the Reserves.

September, 1967 through October, 1967: Peace Corps Training (Lesotho, Africa).

In training near Escondido, California, for Peace Corps Service in Lesotho, Africa. Was only engineer in program of over one hundred trainees. Departed training to resolve dispute with local Selective Service Board concerning draft induction into military services.

June, 1967 through September, 1967: Palm, Beach, Florida, County Health Department.

Air Pollution Control Engineer responsible for new program of air quality monitoring (both fixed and mobile stations). Enforced new state and county regulations governing stationary source emissions. Routinely inspected public and private owned incinerators, power generator facilities, and other point sources to insure wet scrubbers were properly installed, operated and maintained. State of Florida Certified Plume Evaluator. Left employment to resolve dispute with local Selective Service Board concerning draft induction into military service and to apply educational training in a progressive and innovative environment.

PERSONAL:

Age: 36

MARITAL STATUS: Married -- Wife, Jody
Daughter, Jesse (age 1½)

EXHIBIT B

Excerpts from letter of application, F. A. Eidsness, Jr.,
to Hon. W. L. Armstrong, March 5, 1981:

What is needed for EPA and what is its proper role:

1. Narrow the scope of EPA's activities as contrasted to taking on the world's problems. This can be accomplished in large measure through policy and administratively;

2. Set priorities for those activities that are clearly matters of national concern such as toxic substance control and allocate internal resources accordingly;

3. Fully delegate, where allowed, clean water and clean air act responsibilities to the states. Thus far on delegation of responsibilities for states to establish clean water standards, administer and enforce permits and municipal waste treatment grants, EPA has continued to interfere unduly with state programs and perogatives;

4. Establish lines of effective communication with the congress with particular emphasis on identifying where the laws do not work for the public good. Put the burden of clarifying intent and direction back on the legislators. This may involve the stoppage of deal-making with congressional staff and committees on such matters as Advanced Waste Treatment (AWT) reviews where decisive legislative action is clearly needed;

5. Advise Congress on the likely consequences (including economic) of action or inaction with particular qualification as to how "reliable" EPA's analyses are concerning benefits to be gained. This is essential as there remains a huge gulf or misunderstanding between the researcher or scientist with some new idea or discovery and the policy maker. This has resulted all too frequently in a tendency for premature action. Without facts and adequate debate of the issues by peer groups, those who are being expected to bear implementation costs and the beneficiaries are being inadequately represented;

6. Create a sense of accountability of the agency and its employees with the public and private sectors. This can be accomplished by implementing effective management techniques such as clearly articulating objectives, policy directions and priorities. Such tools as the "Bounty System" under the Civil Service Reform Act and State/EPA Agreements can be used to hold EPA and its employees more accountable to state and local agencies;

7. Those who learn best by direct exposure to the problems are the leadership who have the overview. This is justification for severely limiting travel only to those in leadership positions.

8. Those who are being regulated should be brought into the fold to design regulatory reform, including business, industry, local government and professionals;

9. Accelerate needed research on all fronts. For example, costly transportation and land use control measures for air quality should be substantiated by research that demonstrates effectiveness and benefits;

10. Get EPA out of the direct planning role for air, water and solid waste. Effective planning for implementable programs involves a thorough understanding of local government which EPA will never have as an agency;

11. Provide the technology transfer, technical assistance, emergency response, planning and analytical tools for those who request it to help them carry out environmental requirements and programs;

12. Enforce the laws using due process;

13. Bring into key positions within the agency qualified leadership—look to those who have been on the receiving end to fill key positions. Do not repeat the farcical approach used by the Carter Administration to hire managers in EPA's supergrade positions only to find that it had trapped itself into promoting those it was trying to replace;

14. Set policy prohibiting where possible the prescription by EPA of technical solutions to environmental problems and leave it up to the creative abilities of the private sector and state and local government. Examples of this in the recent past include EPA's prescription of air quality transportation controls and legislation for the State of Colorado and the EPA's proposed mandated technological solution to the control of certain synthetic organics in public water supplies which was opposed by the industry.

Briefly, these roles and needs reflect my current perception of where EPA should go and how it should behave.

If selected for an appointed position, I will bring to the Administration:

1. Budget and management experience.

2. Inside knowledge of EPA and its historic stewardship of the environmental laws.

3. Expertise in the implementation of the Clean Air Act.

4. Expertise in the implementation of the Clean Water Act.

5. Expertise in the implementation of a National Environmental Policy Act.

LOUISVILLE WATER COMPANY

435 SOUTH THIRD STREET · LOUISVILLE, KENTUCKY 40202

502-582-2431

FOSTER S. BURBA
PRESIDENT

February 2, 1982

The Honorable Robert T. Stafford
Chairman
Committee on Environment & Public Works
U. S. Senate
Washington, D. C. 20510

Dear Senator Stafford:

The Water Utility Council of the American Water Works Association strongly urges that your committee recommend early confirmation by the U. S. Senate of Mr. F. A. Eidsness, Jr., as Assistant Administrator for Water of the U. S. Environmental Protection Agency.

Our support of Mr. Eidsness is based on the firm belief that his experience and capabilities are superbly fitted to the challenge of managing that office efficiently. He has demonstrated the same concern for the public's best interests in water supply matters as our Association has had since its founding in 1881.

Safe water for human consumption requires the use of practical, economical technology; the knowledge of potential health hazards and a reasonable approach to their solution; protection of raw water sources; recognition of competing values and interests in water supply; and an appreciation of the negative impact that unnecessary regulation can have. We are convinced Mr. Eidsness holds these thoughts as basic tenets and thus reflects the beliefs of our more than 33,000 members.

The American Water Works Association is a non-profit scientific and educational organization, not a trade association. Our interest is in the public's welfare. We feel Mr. Eidsness has the education, the experience, the administrative skills, and the environmental sensitivity to best manage EPA's activities and meet its responsibilities relative to the nation's water resources.

We warmly endorse the nomination of F. A. Eidsness, Jr., and urge that your committee unanimously recommend his confirmation by the Senate.

Sincerely,

Foster S. Burba

F. S. Burba, Chairman
Water utility Council
American Water Works Association

FSB:jcm

NOMINATION OF RITA M. LAVELLE

TUESDAY, MARCH 23, 1982

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, D.C.

The committee met at 2:40 p.m., in room 4200, Dirksen Senate Office Building, Hon. Robert S. Stafford (chairman) presiding.

Present: Senators Stafford, Chafee, Randolph, and Moynihan.

OPENING STATEMENT OF HON. ROBERT T. STAFFORD, U.S. SENATOR FROM THE STATE OF VERMONT

Senator STAFFORD. The Committee on Environment and Public Works will please come to order.

We are paticularly happy this afternoon to welcome Rita Lavelle, the nominee, and our distinguished colleague from California, Senator Havakawa, and Congressman Vic Fazio, also of California.

Rita Lavelle is nominated to be Assistant Administrator of the Environmental Agency for Solid Waste and Emergency Response. If confirmed, Ms. Lavelle will be charged with running two programs of special interest to this committee, and frankly of this Senator, and to the public. One of these is the recently enacted superfund law. The other is the Federal program to regulate the generation, transportation, and storage of hazardous waste.

The American public may have difficulty comprehending what is meant by our terms found in the Clean Air Act or the Clean Water Act, such as BACT, PSD or BAT—and that doesn't mean bat—and the like. However, the public has no difficulty whatsoever comprehending the nature of the superfund and hazardous waste laws. The visions which led to the passage of these laws remain vivid in the minds of the American public, and indeed the Senator from Vermont. In Michigan thousands of cattle were led to the slaughter because the entire State had been contaminated by a chemical. In the James River hundreds of fishermen were thrown out of work when fishing was banned because of a chemical. And in the living rooms of millions the tragedy of Love Canal unfolded on their television screens.

It was to help prevent a recurrence of these problems that Congress enacted the Resource Recovery and Conservation Act, and to help assure a Government response when our preventive laws fail we enacted the superfund. Both of these statutes are now in critical stages. The next 2 months will tell the tale of whether they work well or poorly.

For nearly 15 months the position for which Ms. Lavelle has been nominated has been vacant. This no doubt accounts for a good meas-

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ure of the difficulties which the hazardous waste and superfund programs have encountered. These difficulties include the following problems which are of special concern to the Senator from Vermont:

First, the implementation of these two laws have proceeded at much too slow a pace. Second, whether because of these delays or otherwise, the enforcement of these two laws has also moved slowly. Third, the response activities have been preoccupied with abandoned waste sites to the exclusion of releases. And fourth, inadequate resources have been allocated to the Department of Justice and the Department of Health and Human Services, especially the latter, for the implementation of their responsibilities.

I hope that after Ms. Lavelle is confirmed, as I am sure she will be, that her first priority will be to set these programs off and running. Speaking for myself, I will stand ready to assist her in this, as will every other member of the committee.

Senator Chafee, do you have an opening statement?

OPENING STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator CHAFEE. I do, Mr. Chairman, and thank you.

I want to welcome Rita Lavelle to the committee this afternoon and, of course, say a hello to our good friend Senator Hayakawa and the Representative from the Congress.

This committee has always had a close working relationship with officials from EPA, and, of course, we count on this continuing with you in the event your are confirmed.

As the President's nominee to be Assistant Administrator for Solid Waste and Emergency Response, you will be responsible for administering, as the chairman has said, the programs relating to the Resource Conservation and Recovery Act, and the superfund. This is a heavy responsibility, and one about which this committee is deeply interested and concerned. As you know, our committee developed these statutes to address the emerging and ever increasing problems associated with hazardous and solid waste—from the regulation of disposal, treatment, recycling and transportation of hazardous waste, to the cleaning up of hazardous abandoned sites and response to the spill of hazardous material.

I am very interested in how you propose to move into this key position and face the dilemma that confronts us in dealing with hazardous waste.

It is now almost 6 years since RCRA was enacted, and yet the Agency has not completed development of hazardous waste regulations which, when fully implemented, will provide for comprehensive, so-called cradle to grave regulation of hazardous wastes.

The Agency has shifted its position on the approach to these regulations more than once since 1976, and still won't complete the final regs until the end of 1983. Even though 22 States have enacted hazardous waste siting legislation, no new waste disposal sites have been established. A major stumbling block is development of final regulations outlining requirements for proper disposal at such sites. I believe it is imperative that the Agency focus immediately on completion of the regulations so we can get on with new sites.

This committee worked for 3 years to develop the superfund law which provides the Federal Government with the funds and with the authority to respond to actual or threatened spills and make those responsible liable for the cost of cleaning up those spills.

I am concerned we have seen such slow progress in implementing superfund over the past year. The money is only just beginning to be provided to the States to implement cleanup and response actions. Critical policy decisions on enforcement have not been finalized.

I would like to say in fairness to the superfund administration, the administration that has been dealing with superfund has been extremely responsive in my State and they have moved ahead and they have done the job well. And I think although there can be criticism of superfund and the handling of it, I think there is a realization in the EPA that the country doesn't fully have yet the capacity to respond either financially or technically with personnel to respond to cleanups in all the sites. And I think you are moving ahead in good fashion from the experience that I have had with the Agency in connection with this.

You have a tough job ahead of you, Ms. Lavelle, and I am interested in how you will manage the problems that I have touched on. So we welcome you and look forward to hearing your testimony and, of course, we will have some questions for you.

Senator STAFFORD. We are very happy that our beloved senior colleague, Senator Randolph, is here.

Senator Randolph, we are in the opening statements, and this would be a fine time for yours.

OPENING STATEMENT OF HON. JENNINGS RANDOLPH, U.S. SENATOR FROM THE STATE OF WEST VIRGINIA

Mr. RANDOLPH. It is a pleasure to welcome to the Committee on Environment and Public Works, Rita M. Lavelle, who has been nominated by the President to the Assistant Administrator for Solid Waste and Emergency Response.

I cannot overstate the importance of this post at the Environmental Protection Agency. In this position, Miss Lavelle would have responsibility for administering programs under the Solid Waste Disposal Act and the Comprehensive Environmental Response, Compensation and Liability Act, commonly known as Superfund. Both of these authorities are reaching critical stages of implementation. The Resource Conservation and Recovery Act became law in 1976, and the Superfund in 1980. The hazardous waste regulatory program is just now being implemented, nearly 6 years after enactment. The Superfund is in its first full year of funding.

These laws were developed by this committee, and the implementation of each is a matter of great interest in this time of increasing public concern about toxic chemicals in the environment. This position of Assistant Administrator was created by the Superfund legislation, so that matters involving hazardous wastes and toxic spills would receive attention at the highest policy levels of Agency. As such, the person chosen to administer these laws will be scrutinized closely.

I have met personally with Miss Lavelle, as have other members and the committee staff. She appears to me to approach her new role with sensitivity and enthusiasm. I look forward to hearing her express her views on implementation of the laws which would be under her administration at this hearing.

Thank you.

Senator STAFFORD. Thank you very much, Senator Randolph.

Now we would be most pleased if our able and distinguished colleague, Senator Hayakawa, cared to introduce Ms. Lavelle.

STATEMENT OF HON. S. I. HAYAKAWA, U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator HAYAKAWA. Thank you, Mr. Chairman, and members of the committee.

I am very happy to introduce a fellow Californian, Rita Lavelle, who has been nominated to be the Assistant Administrator for Solid Waste and Emergency Response at the Environmental Protection Agency.

Having over 12 years of professional experience with the private chemical industry and the State Government, she comes to the Federal Government prepared to direct the hazardous waste control program and Superfund. Formerly, she worked for Aerojet Corp. subsidiaries, where in addition to serving as director of communications she also managed programs for divisions which manufacture chemicals, industrial chemical intermediates, and nuclear and chemical waste treatment systems. She was director of marketing for Intercontinental and Continental Chemicals.

While I don't want to give you Ms. Lavelle's curriculum vitae in toto, I would like to highlight her work with the California State government.

She served as director of consumer education for the California Department of Consumer Affairs and was publications assistant for someone we all know, Governor Reagan.

She is a member of the American Chemical Society, the California Council for Environmental and Economic Balance, the American Nuclear Society, and the American Society of Chemical Engineers. Last year she had the honor of being named outstanding woman in aerospace by Aerospace magazine.

It is my very great privilege, therefore, to welcome her to Washington and introduce her to this distinguished committee.

Senator STAFFORD. Thank you very much, Senator Hayakawa.

Representative Fazio, did you wish to comment?

STATEMENT OF HON. VIC FAZIO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Representative FAZIO. Thank you, Mr. Chairman.

I am here to make a personal reference for Rita Lavelle who I have known for about 15 years. We started in State government together back in the late sixties, I a Democrat affiliated with the legislative branch, she a Republican with the executive branch. But despite the

fact we have been on different sides of the aisle and different branches of government, we developed a healthy respect and friendship.

I know Rita to have the academic and intellectual capacity to do the job required of her. I think her experience in communications and management both in the public and private sector certainly recommends her. She knows, and I am well aware that we have had in the past some disagreements in the hot spot that I am sure she is going to be allowed to take in this executive branch of government. We are going to have ongoing debates about a number of issues that come before her office and EPA in general. But I know her to be someone who is up for the job, someone who has the temperament to deal with the very contentious issues that will come before her, somebody who understands public concerns as well as the private sector's problems in terms of dealing with any regulatory agency. I think she is capable of providing the kind of leadership that this particularly sensitive area of EPA will need for the eighties.

I look very much forward to working with her in that capacity, and I am sure that this committee in its role as a real watchdog for environmental issues, particularly concerned, as Senator Chafee said, with the legislation she will be administering, will find her very easy to work with, and I am sure you will be proud of the job she does for you and and the American public in the years ahead.

Senator STAFFORD. Thank you very much, Congressman. We welcome your presence here and that of Senator Hayakawa, but the committee will certainly understand if you have other commitments you need to keep.

Senator RANDOLPH. Mr. Chairman, I would like to supplement by saying it is very good of Senator Hayakawa and Representative Fazio to be here.

Senator CHAFEE. Mr. Chairman, I would like to join in our thanks to Mr. Fazio for coming over because he has known the nominee for a good deal longer time than any of us has, and I think his support for her is a great plus in her favor. So we are grateful you took the time to be here.

Representative FAZIO. Thank you for letting me join you.

Senator CHAFEE. And, Senator Hayakawa, we thank you for giving us of your wisdom in connection with this fellow Californian.

Senator STAFFORD. Now the committee would welcome any statement which you may wish to make, Ms. Lavelle.

STATEMENT OF RITA M. LAVELLE, NOMINEE TO BE ASSISTANT ADMINISTRATOR FOR SOLID WASTE AND EMERGENCY RESPONSE, EPA

Ms. LAVELLE. Thank you, Mr. Chairman.

Mr. Chairman and distinguished members of the committee, I am honored to appear before you as President Reagan's nominee to be Assistant Administrator for Solid Waste and Emergency Response for the Environmental Protection Agency.

It is my conviction that effective protection of human health and safety, as well as protection of the environmental heritage we all hold so dear, is a critical activity for our Nation. It is one which requires

the talents, insights and energies of both the public and private sectors and it is one where these abilities, more properly focused and coordinated, could show some outstanding results.

My intention today is to provide you with some personal observations and thoughts on the Nation's environmental situation, as well as summarize for you my qualifications and experiences relative to your evaluation of my nomination.

My background is a unique combination of technical, administrative, private and public sector experiences, as well as activities which afford me sensitivity to the hopes and fears of ordinary American citizens. While more detailed information has been made available to you and I have had the opportunity to review it personally with many of you, I would like to highlight it one more time.

My technical experience began with a B.A. degree in biology and mathematics with a minor in chemistry. All 4 years I maintained a high scholastic average, earning a president's scholarship in science and mathematics, as well as a Westinghouse science scholarship award. Additional graduate work at the University of California at Berkeley concentrated on stoichiometry and physiological chemistry.

While working as director of marketing for a small Sacramento firm and later as director of communications for Cordova Chemical and Aerojet Liquid Rocket Co., I kept abreast of a broad variety of emerging technologies, many of which are not unlike those of current interest to EPA.

My administrative training includes a master's degree in business administration from Pepperdine University in Los Angeles (cum laude) with a main concentration in finance and strategic planning. Most of my research and thesis work involved studies of issues facing American manufacturing and chemical industries.

I gained administrative experience as director of communication operation for both a small- and a mid-size chemical company over 3½ years. Additionally, for almost 5 years I was director of consumer education for the State department of consumer affairs during Ronald Reagan's tenure as Governor of California.

My familiarity with the private sector derives from more than 5 years of service in the communications area for Intercontinental & Continental Chemicals, for Cordova Chemical Co., and for Aerojet Liquid Rocket Co.

As for State government experience, this derives from about 7 years' service in California, first in the Governor's office and then later as director of consumer education for the California Department of Consumer Affairs.

I have seen Government regulatory agencies work, and not work, from both the public and private vantage points. In both sectors I paid attention to balance sheets and learned the importance of economical operations. As Assistant Administrator I would be on the lookout for economies at all levels, inside Government and with the contractors working for EPA. Getting the most for every environmental protection dollar is an application of Reaganomics which I intend to help Administrator Gorsuch implement.

In both sectors I was involved in policy development and decision implementation affecting millions of dollars and the well-being of many people.

My reputation is one of a results-oriented manager—one who is able to motivate. A careful manager of time and talent, I have most of my experience within advanced high technology companies, ones who employ well educated, highly skilled employees, not unlike the team I would be leading at EPA.

Additionally, my record thus far shows a strong commitment to hearing all points of view and forging workable compromises. Opposing a favored nation policy, I certainly support Mrs. Gorsuch's open door policy—where all ideas are given full consideration.

Given this quick overview of my experience thus far, let me outline for you briefly the concept of the role I would play as Assistant Administrator for Solid Waste and Emergency Response.

My first responsibility, as defined in the legislation you gentlemen have written, is to protect the public health, safety, and well-being. The Congress, with this committee's guidance, has mandated two acts which I will be charged with administering upon Senate confirmation. I refer, of course, to the Resource Conservation and Recovery Act, or RCRA, which amends the earlier Solid Waste Disposal Act of 1965, and the Comprehensive Environmental Response, Compensation and Liability Act, or Superfund.

While meeting all of these congressional mandates, the Assistant Administrator must also function as part of a larger Federal establishment responsive to the President and to the policies which he has set forth. Four key objectives of President Reagan are of particular relevance: regulatory reform, economic recovery, control of Government spending, and transfer of more authority to the States and local government.

Effective administration of the statutes affecting solid waste within these objectives is one of the most challenging creative-management jobs available to a member of this administration; it is one I seek and one that I feel will provide you, the Congress, and the President with excellent examples of success.

Regulations implemented under RCRA are an excellent example of the New Federalism concept which our President has introduced. Under RCRA as passed by you originally in 1965, and as amended by you in 1976, the States have the fundamental responsibility for managing sold waste. Two tasks fall squarely on State's shoulders. One is development and implementing comprehensive plans for managing all sort of solid waste, including an approach to hazardous waste. The second major task is evaluating facilities on the basis of EPA criteria.

The Federal role in this effort is to develop workable guidelines, so that the States can design their own solid waste management programs which insure environmentally sound waste management practices. We cannot just wish away the waste concomitant with the way of life we all enjoy in this country. We must face the reality of almost half a billion metric tons of municipal and industrial solid wastes per year.

The States have stepped up to this challenge in a laudable fashion. As authorized by the solid waste legislation, the States have been assisted to develop comprehensive plans for managing nonhazardous solid wastes. Over half the States have now developed their plans,

14 have been approved by the Administrator, and we expect to have completed the entire process by the end of 1983.

In the area of hazardous waste there have been many significant achievements. Although waste defined as "hazardous" represents a small percentage of all solid waste produced in the country, it is logically the area where the greatest effort and attention must be centered. Significant efforts were made in 1981 by industry, Federal and State governments to translate this into action. Private sector innovation as well as pure market forces have afforded us advances in incineration techniques, process changes and material substitution, detoxification and neutralization of nonburnable wastes, biotreatment and even liner/container technologies.

To control hazardous waste, EPA is devising one of the most comprehensive systems of regulation of any government agency. The thrust of my programs' efforts will be to work closely with private enterprise and State government to increase their participation in the development of environmentally-safe disposal procedures—procedures that are more than theoretical—that are effective and workable.

In the area of hazardous waste under RCRA, States already have achieved some excellent results. Almost 58,000 generators are now required to identify their hazardous waste properly and to insure that the wastes are sent to RCRA-permitted treatment and disposal facilities. They must package and label them properly as well as maintain vital records on the amounts, types, and ultimate disposition of these wastes. Over 14,000 transporters of hazardous waste are required to comply with RCRA regulations to insure that shipments of these wastes are sent to and indeed received by authorized treatment and disposal facilities. In this area EPA has recently proposed a Federal uniform manifest system which will reduce paperwork necessary for interstate shipping of wastes while insuring effective, consistent regulation of these shipments—in short, sound, realistic, workable regulation. Over 19,000 hazardous waste facilities are now registered with the EPA and soon will be permitted or closed down. Thus far, 28 States have been authorized to carry out their own hazardous waste programs on an interim basis, and seven more States are expected to assume management roles this year. Additionally, most of the States are in the Midwest, Southwest, and Southeast where more than half of the disposal facilities are located. Thus, the New Federalism approach to hazardous waste disposal will be operating in 35 of the 50 States by the end of this year. It is anticipated that by 1983 even more will be authorized with final promulgation of EPA regulations and guidance.

In January 1981 EPA issued hazardous waste incinerator regulations, storage regulations, and financial liability requirements. The regulations for land disposal facilities are soon to emerge. Cooperation of waste generating and waste handling industries will be crucial to the success of RCRA and the success of these regulations. As Assistant Administrator I will work to insure these regulations are promulated and, more importantly, that they will work.

It is encouraging to find that industry is already committed to investing significantly in improvements of treatment and disposal facilities and of their technologies. For those who may be less than enthusiastic about improving their facilities, we have under RCRA an active inspection and compliance program. By the end of 1981 the

States and EPA combined had inspected more than 5,800 waste facilities. Compliance orders were issued and civil actions were filed. Along these lines, while I much prefer the carrot to the stick approach, the stakes are too high to hide the stick or to fail to use it when justified. Midnight dumpers, gypsy haulers, and other flagrant bad actors will be prosecuted. It is my understanding that President Reagan's initiative for regulatory reform in no way would destroy regulation where needed. It would, properly administered, insure regulations that are workable and enforceable. We cannot condone nor tolerate practices that threaten the health, safety or that quality of life we all hold so dear.

Many of you on this committee strongly share this commitment. Indeed, under your leadership in December 1980 Congress passed the Comprehensive Environmental Response, Compensation and Liability Act (or Superfund) which will be the other main area of my administrative responsibilities.

Following enactment of the Superfund law the Agency moved swiftly to identify priority trouble spots and published a list of 115 sites. The Agency then focused its talents on the essential step of developing the policies, procedures, and other support mechanisms to manage this large and complex program properly. Now in the second year of the program but the first year of full funding, we are concentrating on moving out on field work at as many sites as possible—sites where we have conducted the necessary field investigations to develop the appropriate remedy.

The cornerstone of the superfund program is the national contingency plan, or NCP. The law, as you passed it, calls for the NCP's revision to reflect new responsibilities in the expanded use of Federal response to problems posed by past practices of hazardous substance disposal.

EPA has taken the lead in revising the national contingency plan in consultation with the Office of Management and Budget and 12 agencies which are members of the national response team. This plan, on which you were briefed 2 weeks ago, provides the methods for discovering, investigating, evaluating and handling cleanup at Superfund sites. We have already begun fulfilling our mandate in the Superfund program. Even though the law was enacted only a year ago, the interim list of 115 priority waste sites is complete and actions at these sites are underway. Thus far we have taken removal actions at 54 sites, we have initiated 39 remedial actions, and we have signed 11 State cooperative agreements with 22 more in negotiation.

As Assistant Administrator I will press for negotiation of cooperative agreements with even more States and for voluntary cleanup by the private sector. An increasing number of private companies are responding to requirements for the immediate and planned removal of hazardous waste. Industry is to be congratulated for stepping up to its responsibilities. We are hoping to see these voluntary efforts extended to the remedial action arena.

I look forward to the day I can report to you that identified hazardous sites are being taken off the list because they pose no threat to public health and the environment. However, we all realize that the cleanup technologies for these sites is now very new. There are no new easy answers to the issues confronting us. We must insure that

the technological community is given the maximum amount of encouragement to develop these answers. It calls for cross-fertilization of talents. We must initiate an aggressive program and refine what we learn as we gain experience.

In conclusion, I hope as Assistant Administrator to aid in bringing about a new era of environmental technologies and applications. I look forward to serving as EPA's Assistant Administrator for Solid Waste and Energy Response. I feel it is one of the most challenging assignments of this administration. It calls for creative management of individuals who all are trying to provide workable solutions to the solid waste challenge. It calls for bringing together the best from both public and private sectors to help develop these solutions. And, most importantly, it calls for a commitment to insure that these solutions become a reality.

Mr. Chairman, this concludes my formal remarks. I would like to thank you for the opportunity to present them.

Senator STAFFORD. Thank you, Ms. Lavelle.

We are in the middle of a rollcall vote. The chair, without objection, will recess the hearing, and we ask you to wait until we can return. We would ask the next witness to do the same. So we are in recess.

[Brief recess.]

Senator STAFFORD. We will ask the committee to come to order.

We apologize to our guests and to Ms. Lavelle. We had two successive rollcall votes instead of one. We hope there will be no more until we can get this job done.

Ms. Lavelle, do you hold any property in stocks, bonds, real estate, so on, that might place you in a conflict of interest in terms of the job you are about to be confirmed for?

Ms. LAVELLE. No, Mr. Chairman.

Senator STAFFORD. Do you hold any other official position with any organization that might place you in a conflict of interest position?

Ms. LAVELLE. No, Mr. Chairman.

Senator STAFFORD. Would you be willing at the request of any committee in the Congress—House or Senate—to appear in front of it as a witness?

Ms. LAVELLE. Most certainly, Mr. Chairman.

Senator STAFFORD. As you know, some outside groups have questioned your nomination because of their fear that your industry background might present a conflict of interest. So, first, I would like to give you the opportunity to comment on this issue for the record, if you so desire, and second, I would appreciate your providing this committee in writing a description of all interests which I have just mentioned, if you would for the committee records.

Ms. LAVELLE. Yes.

First of all, I think the experience I have in private enterprise is an asset I bring to this office. The company in question is Aerojet General Corp. I think I should state right in the beginning, as I have had the opportunity to state in private meetings with the members of the committee, I am extremely proud of my association with Aerojet General Corp., and I don't foresee an occasion where I will be embarrassed for having worked for them.

The company is on the Superfund priority list, and that is why the questions are occurring. I have taken a recusal statement for the term of my office, so I will not be involved in any immediate decision involving Aerojet General Corp., or any of its subsidiaries.

However, for the record I would like to state that this corporation, Aerojet General, is to be commended for its activity. While not accepting any guilt whatsoever on the allegations that were made against it in the area of alleged pollution, the company has gone ahead, has taken removal action, removed the immediate source of pollution, and second, is going about a remedial phase now wherein the aquifers that were supposedly polluted are being cleaned up at the company's expense.

Now I would like to point out that the company is going ahead and doing this. I left in November. The company probably will have completed its cleanup activities by the end of the year, as far as I know. Second, the company is doing it all at its own expense while still in litigation as to whether it was the one which indeed contaminated the aquifers in question. So I think the company is to be commended for its efforts. It has taken an approach I would hope other companies would take.

Senator STAFFORD. Thank you.

As you heard me say in my opening statement, I am concerned about the slow enforcement activities under hazardous waste laws and under Superfund. Will it be your intention as the Assistant Administrator to accelerate the pace at which these two laws are being enforced?

Ms. LAVELLE. Yes, sir.

Senator STAFFORD. That is a kind of short answer we northern New Englanders like to hear.

Ms. LAVELLE. Thank you.

Senator STAFFORD. The Chair is going to reserve the right for all members since others may wish to submit questions in writing to you, Ms. Lavelle, for a response in writing at your very earliest convenience.

The Chair notes that we also have a statement from the Sierra Club, which has been distributed to the press and which I ask the staff to provide to members.

Unless there is objection, I would ask that the statement on behalf of A. Blake Early, the Washington representative of the Sierra Club, be included in the record so that our record will be complete. (See p. 71.)

We will keep the record open until the end of this week for statements people might wish to have placed in the record.

The Chair notes that the U.S. Army Corps of Engineers announced last week that Col. Bob Tener had been named to serve as Assistant Director of Civil Works for Superfund.

Colonel Tener is familiar to this committee, at least to its senior members, from his days as a district engineer from the National District—and more recently as executive officer to Assistant Secretary of the Army for Civil Works, Bill Gianelli. In fact, if I am not mistaken, he helped develop the plan for the Big South Fork Recreation Area—

an environmentally sound project if there ever was one—under legislation sponsored by Senator Baker before he became our leader.

Last month the EPA and the corps announced a joint undertaking for the corps to manage clean up of hazardous waste sites. I think we are pleased because we have confidence not only in the management ability of the corps but in their efficiency, their competence, and their reputation for completing in good order whatever responsibility they undertake.

I am pleased to see that Bob Tener is taking the trouble to be here today. It is characteristic of him to be attentive to duty. And I take this opportunity to introduce him to our guest.

Colonel TENER. Thank you, Mr. Chairman.

Senator STAFFORD. You have heard both the statements from the committee and the responses and statement from Ms. Lavelle.

Senator Moynihan, do you have a statement or questions?

Senator MOYNIHAN. I have just a few remarks, Mr. Chairman.

I appreciate the opportunity to welcome Ms. Lavelle. We had a most agreeable visit the other day.

I look forward to meeting with Colonel Tener. I congratulate EPA on getting you. Your reputation precedes you, sir.

We are concerned, Ms. Lavelle, and it is not entirely fair to ask you this question, but you ought to know of our concern, that your arrival is welcome but tardy. The administration is well into its second year and only now does it appoint the administrator for this program which is in its nature a program that is meant to respond to crisis situations, urgent situations. The funds for the program began to be collected a year ago. They are now ample. There is something like $289 million in the fund. Now it is not there to be spent regardless, but, on the other hand, there has been only $45 million obligated and not even that much spent. And our concern, and I would like to put it to you, our concern is the administration doesn't like the program and, in any event, doesn't like spending money where it doesn't have to, owing to the deficit, and that you are a target of opportunity, you might say.

Could you speak to that question and assure the committee that you will not let yourself be used by the view of the budget for purposes that have nothing whatsoever to do with your program, to wit, you are not going to eliminate the deficit anyway?

Ms. LAVELLE. I was going to say, Senator, yes, our amount in the fund would hardly make a dent in the deficit.

Senator MOYNIHAN. Now will you say that to David Stockman.

Ms. LAVELLE. Yes.

Actually, I would like to persuade the committee to start thinking, though, in another way, if I might. Maybe our success should be measured in the number of sites that are cleaned up. Secondary to this is whether we spent the money in a fashion where we can show every dollar expended under the act as we are told to do.

The program has been slow in starting. Mr. Hedeman, who was appointed by Mrs. Gorsuch, only took over November 1, and some of us that are trying to get the program in tow came in a little bit later. So it has had a slow start, but I think it is a very, very strong start. The national contingency plan is out. We now have our management systems in line and we are ready to proceed.

Senator MOYNIHAN. It is out but 9 months late. The law said it was to be done. It was meant to be out by July of 1981. But it is not your doing, and it took more time, it really took the time it did. You sense our concern.

Ms. LAVELLE. Yes, sir.

Senator MOYNIHAN. Up until now you have not been responsible and from now on you will be, and that is as it should be. We do not measure your success by how much money you spent but by how many wastes sites you get cleaned up, and if you can get them done at no expense to Government, fine. The idea of Superfund was when you find a situation, respond to it first and argue about who pays for it next.

The Love Canal was the classic situation. I don't want to take up too much of the chairman's time. We have a Superfund because of the agony of people who lived in Love Canal which brought this to us in a very graphic way, a very personal way, and established a fact there sometimes liability isn't clear or liability is litigated and contested and in the meantime people are exposed to toxic wastes. So your purpose is to act. And if it is a close question, I hope you would decide on the side of acting. That is why we put together this measure.

You had some rather reassured news about Love Canal itself which I don't want to be parochial about, but being so symbolic in this matter, but it makes your case better than I could do. Would you tell us about that situation right now?

Ms. LAVELLE. Well, where the Agency stands right now is that the ORD (Office of Research and Development, EPA) study, which is determining the extent and degree of contamination, is being reviewed by the Bureau of Standards. This is peer review. The results are due back to the Agency, where they will be reviewed one more time.

Senator MOYNIHAN. This is what we call the R. & D. study?

Ms. LAVELLE. Yes, sir.

Senator MOYNIHAN. And they are methodological issues about how to do this, and the Bureau of Standards——

Ms. LAVELLE. Is going to bless it.

Senator MOYNIHAN. A review committee is making a judgment of the scientists who will be be there.

Ms. LAVELLE. Correct.

Simultaneous with this, the Superfund has allocated almost $4.5 million, including $260,000 for the engineering design. Toward the end of this month, or hopefully in the first week of April, we can release our findings and proposal, our engineering design, for public comments and public review in the community.

However, Mrs. Gorsuch and, I am sure you gentlemen too, do not want to play with the emotions of the people at Love Canal one more time. We want to make sure, when this report comes out, that it is indeed a true description of the situation as it exists and that the solution we are posing is the correct solution and the best solution. So we will be briefing the people in the area first, before we come out with the total announcement. But that is the internal time plan to which we are marching right now.

Senator MOYNIHAN. Fine. I think that is fair. You couldn't ask more in the way of response.

I am going to ask in writing, Mr. Chairman, if the Administrator wouldn't tell us more about the origins of that 25-percent rule on buried waste in drums and to urge her to consider—just to consider—is it really a good idea any longer at this point to be putting toxic waste in drums and burying them. I mean haven't we had enough misery of that. Won't we think of ways to incinerate, or whatever, the waste and not to put it under ground only to forget where it is and only to rediscover it in 50 years time.

Did you want to say something about that right now because there was surprised, if not shocked, reaction. Oh, my lord, they are back at it. We thought we found out about burying waste in drums and letting them rust and then leaching.

Ms. LAVELLE. Well, I think that perhaps it was an example of some miscommunication in that the Agency's reg, as it came out, we thought basically would be a technical, sound one. But we were paying too much attention to the reg. We didn't take a look at the impact of the 90 days. I would like to comment for the record. It was not a haphazard decision, because under RCRA laws wholesale dumping of liquids into landfills is simply not legal. But I can respond in writing and more detail to your comments.

Senator MOYNIHAN. I just leave you with the thought that regardless of technology and the techniques involved, I don't think the country any longer wants poisonous, toxic wastes put in landfills and covered up and left to look after themselves. I mean even if it costs a little more to get rid of it altogether and even if it requires storing until you find the facilities to do so, the toxic waste situation can be resolved, Mr. Chairman. There is only so much of it. It is to the 20th century what waterborne bacteria was to the 19th century and before. If we take care of what is around and take action to limit what is produced, we have solved it. There will be other problems around when this is over.

Thank you very much, and good luck.

Mr. LAVELLE. Thank you very much, Senator.

Senator STAFFORD. Thank you very much, Senator Moynihan.

The Chair is about to recognize Senator Randolph for questions or any statement. But first we will observe—in your résumé we note you researched, wrote, and edited numerous press releases, speeches, veto messages, executive orders, and legislative packages while in the executive chamber in California. We may have to consult with you on a more personal basis on what you might predict might be coming in the future in the way of speeches, veto messages, executive orders, and legislative packages from the White House. We won't ask for a response right now.

Ms. LAVELLE. Thank you, sir.

Senator STAFFORD. Senator Randolph.

Senator RANDOLPH. Thank you, Mr. Chairman.

I am glad to join with you and Senator Moynihan, and earlier today with Senator Chafee, in the recognition of Ms. Lavelle, listening also to Senator Hayakawa and Representative Fazio from your own State and district in California.

I know that you have assured us that you would recuse yourself from involvement in any matter that concerns Aerojet General for the time that you would be in office. Now beyond the specific matters,

Ms. Lavelle, that would involve Aerojet, there will be issues, as I see it, that you will be called on to decide which will significantly affect Aerojet. I have every right and do assume that you will exercise prudence, caution in such matters so that there will not be even the possible appearance of conflict of interest. What is your intention, and would you explain it for the committee record?

Ms. LAVELLE. Well, Senator, as we have discussed, I have taken a recusal statement for any decisions that would directly affect Aerojet General Corp., or any of its subsidiaries. That is what I did do and it is in your package there, I believe.

Do you want me to go further? I can't understand. What do you——

Senator RANDOLPH. You don't understand the question?

Ms. LAVELLE. I understand the question. I took a recusal statement. Do you want me to speak more than that or to some subjects other than that?

Senator RANDOLPH. No, I only want the further assurance you have given. Now you are before the committee. You just might want to add what you said in a brief few words. I want the record to show it.

Ms. LAVELLE. I will have nothing to do with any matters directly affecting Aerojet General or any of its subsidiaries.

Senator RANDOLPH. That is sufficient.

Ms. LAVELLE. OK. Thank you.

Senator RANDOLPH. The Solid Waste Disposal Act—and you know it is not limited by its very existence to hazardous waste—you are going to be responsible, Ms. Lavelle, for implementation of the entire act, not just a part of it. One of the key elements is the statutory ban on open dumping. That, as our chairman knows, is a matter that I fought for many, many years ago to try to put a closer period of time when we hope that we could completely eliminate open dumping in the United States of America. That was one of the procreations of the bill.

My question now is in two parts. Do you agree that this is highly important or a vital part of the Federal solid waste program? And what will you do to assist the States in developing the schedules of compliance and hopefully in many other ways carry out the ban on open dumping? Open dumping is not only an objectionable practice to me, it is abominable. It is something that is a throwback to a period when certainly we were not the Nation that we are now, where people live very close together and our economy is tightened up by mobility, and so forth. Would you make any comments?

Ms. LAVELLE. It would be a vital part of the program of RCRA enforcement, as you have directed and as we have tried to implement the program.

The only comment I would make without investigating further—and I can provide more information for the record if you want for the record in writing—is that this is an example of the need for workable regulations, for the States to assume the authority and responsibility. We have to work closely with the States to assure these regulations are indeed enforced.

Senator RANDOLPH. Yes, I think that you would agree, and I am certain the chairman has seen this even in a beautiful State like Vermont, where attractiveness of scenic grandeur of Vermont, surpassed only by West Virginia, and including California, that those

persons who travel over our network of roads are faced with an open dumping of all sorts of products—discarded washing machines, old cars, every type of objectionable eyesores. You want to stop that, do you not?

Ms. LAVELLE. Yes, I hope to try to do that. I think we have to encourage development of technologies with which this can be handled. It is one thing to say thou shalt not do it, but the better solution would be to show how can we stop it. We must encourage development and use of technologies that can handle this sort of problem. As I said in my speech, it is concomitant with a way of life we all enjoy in this country, and it is a reality we must and should face.

Senator RANDOLPH. We created crusades in our State of West Virginia, and they have been directed toward the elimination of litter and items even larger that debase our very existence in a sense. And I appreciate your giving attention to this.

I will take a little longer than I would ordinarily, but this is something that is close to my experience in having tried to correct it. We have a very beautiful town in which I live, Elkins, W. Va. I would rather document it rather than talk as if it had no name. And there we have a newspaper called the Inter Mountain. It is edited by I think one of the finest editors and news people I know—her name is Eldora Newsome—of long experience, a superb photographer, moving out of her office quickly to catch a picture that is needed, writing an editorial which is soundly based, expressing, of course, sometimes differing opinions with her readers, but always the assurance that it was written with a knowledge that she had looked into whatever the subject matter would be. We do not have large newspapers in West Virginia, but this would be called a smaller daily newspaper. And yet last year it was adjudged the finest of all our newspapers, including those in Charleston and Huntington, the larger cities of our State, our town being about 10,000 in population.

I use the illustration of what people can do, and sometimes little people—children. She had three children, Mr. Chairman, come to see her in the office, and they said, Mrs. Newsome, people are throwing all sorts of articles, including refrigerators, what not, parts of cars, in what has been a beautiful river that passes through our city called the Tiger River. And she said where did you say that has been the practice? And they said well, right within the city. And so she didn't wait for a week to assign someone to the story. She got into it that day herself, and it became headlines with pictures. And the little children brought the message to her. Even though she was understanding the city and knew it she hadn't realized what was taking place within a mile of the office of the Inter Mountain.

So we need, and I tell this story, the educating of our children within our school system to look for those litter spots, those objectionable open dumping practices which outlawed still exist. Can you be a crusader for that kind of program?

Ms. LAVELLE. I would be proud to be a crusader for a program like that. I think individual initiative is what has made this country the country it is and that kind of initiative should be encouraged.

Senator RANDOLPH. I appreciate that. And ordinarily I wouldn't have talked in that personal way about my home community, but I am sure that throughout America we have to have not only an awareness

but an eagerness to attach ourselves to problems like that that deface and debase the very civilization that we believe we have strengthened.

Now your statement today indicates that private companies are increasingly responsive to the requirements for the removal of hazardous waste, stepping up, let's say, to its responsibility. Yet last year—and I am not a carping critic—EPA, the enforcement personnel, were here telling our committee members and the staff that industry response to the demand of letters setting forth 115 priority superfund sites was very disappointing. Now I am not sure why that is, but I would like for you to tell us what voluntary action we can have that will be sufficient to clean up these sites, or will a stronger enforcement be needed? Would you couple the two together, or what do you believe we should have as a priority?

Ms. LAVELLE. Well, I would say it calls for creative enforcement, but enforcement that is strong if necessary. The best solution, as I was saying to Senator Moynihan, the best mark that we should be measured by is the number of sites we have cleaned up. If the cleanup is achieved by strong encouragement of the parties that are responsible, which we call voluntary efforts, that is fine, albeit the sites are cleaned up. But I do think that industry is willing to step up to its responsibilities and take on these tasks. Some of them might have been a little hesitant until the national contingency plan was out and they knew what types of responsibilities they had. But (a) I would be willing to enforce strongly and (b) I would like to see more private enterprise operations stepping up to their responsibilities. And I think that will be the case if they know the enforcement will be rigorous.

Senator RANDOLPH. Encouragement certainly by the very hopeful progressive legislation that we passed, but also knowing that the encouragement is not sometimes enough and there must be the enforcement process; is that correct?

Ms. LAVELLE. Yes, sir. As I called it in my speech, the stick. I am willing to use it if necessary.

Senator RANDOLPH. And this final question, Mr. Chairman.

Insurance or other evidence of financial responsibility for operation and the closure phases in hazardous waste facilities is I think abundantly required by subtitle C in our Solid Waste Act and followed later by the Superfund law. Such financial responsibility is, therefore, a requirement at the Federal level. Now the Congress and the regulated community have been aware of that for a long time. Such assurance that public liability will be covered is a key, as I understand it, to an acceptance of a facility by a community uncomfortable with having hazardous waste of one type or another, mobile or stationary, in its midst. Now the financial responsibility requirement protecting the third policies should not be dropped, or should it be?

Ms. LAVELLE. I think that good management calls for financial responsibility. The question is how do we as a regulatory agency bring that about? And once again I will strongly encourage that financial responsibility be provided. I personally am opposed to a Federal requirement for insurance, but my position is not very popular, so I gues: I would have to go with the position that under RCRA we have a responsiblity to set a minimum Federal level of insurance for sudden and nonsudden events. That would be my position at this time. I heretofore thought it was a States' issue, but the States are really saying,

"No, we want a Federal definition also," so I would go with that position.

Senator RANDOLPH. I appreciate your answer. But it is also a definite Federal responsibility I think, whether it is insurance or what it is; it is a responsibility. I think we are in agreement on that.

Ms. LAVELLE. Yes, sir.

Senator RANDOLPH. We hope at other levels it can be done, certainly. Thank you, Mr. Chairman.

Senator STAFFORD. Thank you very much, Senator Randolph.

We do have one more witness today. Ms. Lavelle, we appreciate your appearance with us, and we will endeavor to bring this matter to a vote in the committee as soon as we can schedule it.

Ms. LAVELLE. Thank you, Mr. Chairman.

Senator RANDOLPH. Mr. Chairman, might I say I shall vote for Ms. Lavelle, and I say that having talked with her, as you have and other members of the committee, prior to the testimony today. But I think she responds in a way as I look at her and see what she says and feel I know what she means. It is a privilege to support her.

Ms. LAVELLE. Thank you.

Senator STAFFORD. I am sure that will help her sleep tonight. Thank you very much, Ms. Lavelle.

The final witness scheduled for today is Penny J. Newman, president of the Communities Against Toxic Wastes in Landfills, from Riverside, Calif.

Ms. Newman, we would be glad to hear your statement at this time.

STATEMENT OF PENNY J. NEWMAN, PRESIDENT, COMMUNITIES AGAINST TOXIC WASTES IN LANDFILLS, RIVERSIDE, CALIF.

Ms. NEWMAN. Thank you, Senator Stafford.

I appreciate your allowing me the time to address you today. I also want to thank you for having the nice sunny weather outside to make me feel at home. This is my first time in Washington.

Senator STAFFORD. It took both West Virginia and Vermont to get this weather here.

Ms. NEWMAN. Good.

You have before you the written statement I had submitted to the committee, and I won't insult your intelligence by reading it to you. But I would like to add a few more of my own comments if I might.

I might explain first what Communities Against Toxic Wastes in Landfills is and what my association is with the toxic issue. That particular group is a coalition of community groups throughout primarily southern California that live near toxic dumps—the McCall site in Fullerton, the BKK site, it is all the way down to the Mexican border. They are people who share the experience of knowing what toxic chemicals can do to a community and to do their families.

I am president of that organization and a member of Concerned Neighbors in Action which is my own community organization near the Stringfellow acid pits, which is classified in California as its most hazardous waste site.

In the last few years the awareness of the American people to the problems caused by toxic chemicals has increased dramatically and primarily due to the publicity that Love Canal received and many

other sites throughout our country. There doesn't seem to be a week that goes by that either on TV or in the newspapers we don't read about a toxic spill or another dump site that is polluting the community.

But there is a large segment of our society in which these stories are much more than just headlines in newspapers. For people like myself that live near toxic dumps, these stories are our reality. We live with it day after day and year after year.

The industry seems to view the issue of hazardous waste as an economic problem. Government views it as a regulatory problem. But to us it is much more. It is an issue that threatens our homes, our families, our very lives. We see it from the perspective of a young mother who cannot allow her child to play in her backyard because the air makes the child ill, or in the young woman who has suffered six miscarriages in the quest to have a child, or from the parents who lie awake at night and listen to their child struggle for breath, or from the mother who comforts her child who is going through epileptic seizures.

My community has been working to find a solution to the Stringfellow acid pits for over 10 years. That was way before it became the popular issue that it is now. We have been promised by industry, by State government, and by elected officials that with Federal assistance through the Superfund we will have a safe cleanup of our site.

The recent changes of EPA have diminished our hopes of saving our community. The relaxation of regulations, the lack of implementation of Superfund, and rampant rumors that the Superfund will be allowed to reach its maximum ceiling so no more will be collected from industry, and now this appointment, all of this leads us to believe that the Federal Government is turning their backs on us and sacrificing us to please industry.

You heard today the statements that the real measure of success with EPA will be the amount of sites that are removed from the list needing cleanup. What we hope is that not a thousand dollars here or a thousand there is going to be put into many sites for a clay cap or very minor cleanup and then called a cleanup measure so that it looks good on paper, what we want is significant cleanup.

The appointment of Rita Lavelle who is so closely alined to one of the major polluters in California is a slap in the face to those of us being victimized by the chemical industry. We are simply asking the person appointed to this position have the technical background to deal with such a complex issue, that she have the administrative ability to carry out programs diligently and successfully, and that she not be directly connected with the industry EPA is supposed to be monitoring. Rita Lavelle does not meet any of these categories. We are asking that you help prevent the Environmental Protection Agency from becoming the "Industry Protection Agency." This appointment of Rita Lavelle to EPA should be a personal embarrassment to President Reagan, who should be aware of the severe problems within his own home State.

On behalf of all the communities, the families, and children throughout our land who are experiencing chemical warfare within our own country, I ask that you take the first step in protecting these families.

Please vote against the appointment of Rita Lavelle as Assistant Administrator of EPA.

Thank you for your time and consideration.

Senator STAFFORD. Thank you. Is it Mrs. Newman?

Mrs. NEWMAN. Yes, it is.

Senator STAFFORD. Thank you for your statement.

I assume you take the position in opposition to Ms. Lavelle notwithstanding the testimony which you must have listened to here today in front of this committee.

Mrs. NEWMAN. Yes. I really believe that even with the fact that she will not enter into any situations dealing directly with Aerojet, I think that her association with the chemical industry gives her a philosophy, an attitude, plus her influence in her position where she could have significant effect upon those decisions.

Senator STAFFORD. The Chair noted in your statement that you and your colleagues suggested the Federal Government might be deserting you as far as the toxic spills are concerned. We would remind you that we do have a Federal Government in three branches, as we all were repeatedly told in school—judicial, executive, and legislative. I can assure you that the legislative branch in the area of toxic spills does not intend to desert the American people in any way. It was through the effort of this committee and our counterpart in the House, under Senator Randolph's distinguished leadership, that we were able to get the Superfund passed, which we intend to be only one of the vehicles to protect from toxic spills of any kind.

Mrs. NEWMAN. We had really looked forward to the Superfund being passed and looked forward to the Superfund in California so we would have the 10 percent to match to make its implementation easier. I am afraid the people who live near these sites do not know of people like yourself who are fighting for them. All we read about are the appointments of Anne Gorsuch and Rita Lavelle that are going to affect us personally.

Senator STAFFORD. Senator Randolph, do you have a comment?

Senator RANDOLPH. Only to supplement what you said, Mr. Chairman. I am sure that both of us, and I would never attempt to speak for you, but in this instance the concerns, many of them expressed by the witness, are our concerns.

Senator STAFFORD. Yes.

Senator RANDOLPH. But we in a sense separate from a nomination if we feel that that nominee has the ability, hopefully has the desire and the determination in the position for which the President of the United States has nominated that witness, man or woman, that we certainly must in a sense not wholly disassociate the nominee from the situation which admittedly concerns me. And I hope, Mr. Chairman, although we may not be able to look into the matters that she has mentioned, we do have a way with our staff of actually checking some of these matters and seeing if the processes of the legislation as it becomes law, that there is the administration of the law dealing with exactly the matters that you brought before us. I know that that is what you would want and I think the committee members would want. I am grateful for your testimony.

Mrs. NEWMAN. Thank you.

Senator STAFFORD. We might conclude by saying Senator Chafee, who chairs the subcommittee in question of this committee, does intend for oversight hearings on the Superfund this year.

Mrs. NEWMAN. I wish that this committee could make if nothing more than a symbolic gesture to the people of the Nation who are living like I am by rejecting this nomination. But I surely hope that you will use your power to oversee what happens in EPA and watch it very closely.

Senator STAFFORD. Well, thank you very much for your testimony.

Mrs. NEWMAN. Thank you.

Senator STAFFORD. There being no further witnesses, the hearing is adjourned.

[Whereupon, at 4:22 p.m., the committee recessed, to reconvene subject to call of the Chair.]

[Curriculum vitae, responses to written questions, and statements supplied for the record follow:]

CURRICULUM VITAE

RITA M. LAVELLE
2646 Chassella Way
Sacramento, California 95825

WORK EXPERIENCE:

May 1979 - Present

DIRECTOR OF COMMUNICATIONS,
Aerojet Liquid Rocket Company (an Aerojet-General subsidiary)
Sacramento, California

Developed and implemented external and internal public relations/public affairs and communications programs for largest of the Aerojet-General companies.

Directed marketing services responsibilities which included: support for five divisions covering both domestic and international markets in liquid rocket engine systems, marine propulsion systems, energy conversion/conservation systems, advanced amphibious landing crafts, and naval mine and weapons programs.

Developed and implemented major community relations campaign to counter environmental pollution charges brought against corporation.

Handled all political/public contact responsibilities for corporation on this, as well as other sensitive matters, e.g. labor, safety, suits.

Internal communications programs in addition to newsletters, bulletin boards, videotapes, etc., included development of productivity improvement campaign and environmental compliance/awareness campaign.

Assist first line supervisors with safety/environmental training programs including chemical storage/handling and disposal procedures.

Department budget - $350,000 with authority power on $800,000 in direct/indirect overhead expenditures.

May 1978 - April 1979

DIRECTOR OF COMMUNICATIONS
Cordova Chemical Company (an Aerojet-General subsidiary)
Sacramento, California

Developed and implemented external and internal public relations communications program.

Assisted in obtaining necessary government agency permits to open new Michigan plant for production of ethylenimine.

Oversaw development of company safety and training programs as well as chemical handling/storage procedure programs.

Designed, developed and produced marketing services campaign and support material for entering speciality chemicals market and increasing share of proprietary chemical product lines.

Department budget - $300,000

May 1976 - May 1978

DIRECTOR OF MARKETING
Intercontinental and Continental Chemicals
Sacramento, California

Developed and implemented sales and marketing programs for national sales force.

Brought all product packaging and labeling into compliance with DOT, RCRA and OSHA regulations.

Directed staff responsible for publication of all corporate literature including: product data sheets, monthly newsletters, product brochures, direct mail campaign, product feature stories in trade journals, annual reports and stockholder's reports.

Wrote testimony and testified on behalf of corporation before Water Quality Control Boards and small business product liability hearings.

Supervised staff of 9 - annual department budget $275,000.

1971 - 1976

DEPARTMENT OF INFORMATION OFFICER/
DIRECTOR OF CONSUMER EDUCATION
California Department of Consumer Affairs

Developed and oversaw all media functions of this department which licenses over 1.5 million Californians.

Wrote, edited, taped for television and radio presentations various series of consumer tips and warnings.

Addressed many large groups for department e.g. 2,000 business teachers, 350 Los Angeles secondary principals, 4-H and Future Farmer conventions, and many district attorney and law enforcement conventions on consumer goals/achievements of administration and business.

Wrote departmental analyses and testified on consumer education legislation pending before state legislature.

Wrote annual departmental report to legislature. Initiated, wrote and maintained departmental legislative summary to agency and trade associations.

Testified on behalf of Consumer Services Division of Departmental Policy and Budget Heareings before the legislature.

Wrote numerous departmental position letters for director's signature.

Handled all press inquires and reactions for same.

Supervised staff of 35 - annual department budget $250,000.

1969-1971

PUBLICATIONS ASSISTANT
Governor Ronald Reagan

Researched, wrote and edited numerous press releases, speeches, veto messages, excecutive orders and legislative packages for presentation to statewide media.

Summarized statewide and national news daily for Governor, Cabinet and Senior Staff.

Contributed writing and editing for numerous reports to the legislature, e.g., Budget Message, State of State Address.

Summarized administration's legislative proposals for media package release of accomplishments and editorial responses.

EDUCATION:

BA - Biology and Math; minor Chemistry
College Holy Names - 1969

Main concentration in cellular biology, mathematics and chemistry. Numerous undergraduate courses, including upper division bio-chemistry, physiological chemistry, organic chemistry, physical and analytical chemistry, anatomy, physiology, calculus and differential equations. Post graduate work included physiological chemistry and stoichiometry.

During entire college career, worked at least 20 hours a week for room and board; maintained 3.6 GPA for President's Scholarship in Science and Mathematics, and Westinghouse Science Scholarship award; served as class and student body officer all four years. In senior year, paper on DNA Replication was published in Scientific Journal and translated to six languages.

MBA - Pepperdine University - 1980

Main concentration finance and strategic planning. However, most research and thesis work involved problems directly related to the manufacturing and chemical industries. Some major studies, investigations included:

- M. Field Survey of Sacramento Community Reactions to Allegations of Pollution by Aerojet-General --

  Outlined and oversaw survey (company pledged $10,000), then wrote 64 page in-depth analysis as well as proposal for company community involvement campaign. Study incorporated statistical correlation of demographics employing chi square and expected frequency analyses.

- An analysis of capital/R&D and technological investments of major U.S. Chemical firms - 1970-1980.

  Study compared financial ratios of 4 major U.S. Chemical firms. Showed pattern of recent vertical integrations, both domestic and abroad, with subsequent curtailment of R&D/capital investments.

  Predicted lowered technical processes, advancements, as we as plant shutdowns. Further studied EPA/OSHA regulatory policies and financial consequences on these corporations.

- Reactions of First Line Supervisors to Political Stressors on the Corporation.

  Detailed (57 page) study of interviews of company first line supervisors. Included recommendations for "get-well" plan of education to compliance requirements for EPA, OSHA, and DOL. Plan was adopted and implemented by company.

- A Strategic Plan for Productivity Improvement in High Technology Manufacturing Firms.

  Detailed in depth (73 page) study of productivity decline in the U.S. with an examination of internal and external micro and macroeconomic determinates, e.g. regulatory reforms, taxation and capital formation, R&D incentives, labor costs, energy costs, as well as inflation. Contains a short and long term "get-well" plan.

PROFESSIONAL AFFILIATIONS

Rancho Cordova Chamber of Commerce
Sacramento Metropolitan Chamber of Commerce
Sacramento Area Commerce & Trade Organization
Navy League of the U.S.
Air Force Association
International Association of Business Communicators
National Association of Manufacturers
American Chemical Society
California Council for Environmental & Economic Balance
California Manufacturer's Association
American Institute of Aeronautics & Astronautics
Aerospace Industry Association
American Management Association
American Society for Aerospace Education
American Nuclear Society
American Society of Chemical Engineers

COMMUNITY AFFAIRS

Active in community affairs and has assisted in many events supporting the Mercy Hospitals of Sacramento, the Northern California Association of Girl Scouts, the Big Brothers/Big Sisters program, and Eppie's Great Race for mentally and emotionally handicapped children.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

March 26, 1982

Honorable John H. Chafee
United States Senate
Washington, D.C. 20510

Dear Senator Chafee:

I very much appreciate the opportunity to address the Committee and to personally respond to your questions and concerns. I am always open to comments and suggestions and will seek to respond promptly to questions the Committee, or you personally, may have about the responsibilities which I will administer.

My responses to your written questions are attached. If you require further clarification of my position on these issues please feel free to contact me.

Sincerly,

Rita Lavelle

Rita M. Lavelle
Assistant Administrator - Designate

Questions from Senator Chafee

Question: In your statement you say that you agree that the States should take over the Resource Conservation and Recovery Act activities and handle their own programs. In your view, can the States take over these programs with much reduced Federal funds or do they require additional dollars?

What kinds of functions do you see the states taking over most effectively?

Answer: In my view, the budgeted funding level for State hazardous waste programs is appropriate. It is consistent with the schedule we have developed after consultation with the states, for Phase I and Phase II authorizations. Certainly a substantial reduction in Federal funding would adversely effect the implementation of State hazardous waste programs and would also dramatically slow our progress in authorizing State programs. However, a significant increase in State grants support would be unlikely to speed up the progress of State authorization, as it could not be effectively used.

I remain convinced that the RCRA regulatory program can best be implemented by the States. It is the individual States, rather than the Federal Government, who have the best understanding of local problems, State-specific environmental issues and the concerns of local citizens. This concept is reinforced by the willingness of the States to step forward and accept this increased authority.

As of March 23rd of this year, 42 state plans for RCRA Subtitle D authorizations have been developed and provided to EPA, as published in the Federal Register. Thus far we have approved 19 plans and are likely to approve 15 more by the end of FY-82. Subtitle C authorities are being issued in two phases. Thus far EPA has authorized 28 states under Phase I and expects to authorize six more by the end of FY-82, for a total of 35 states. Phase II authorizations which include plans for hazardous waste treatment facilities include two very recent authorizations (Texas and North Carolina) with six more in review for an anticipated total of eight for FY-82.

Thus, it is very apparent the States wish to oversee their own hazardous and non-hazardous waste management operations. Responsibilities as outlined in the approved plans include: registration of generators, transporters, storers and disposers; as well as monitoring and compliance inspectors for these facilities to ensure they meet state and EPA standards for operation.

To fund these operations many states are proposing user fees and special taxes so that programs thus far appear to be self-financing. Indeed, in some cases the program is envisioned as a resource generator for other state programs.

This ingenuity and uniqueness of approach by each state in meeting its responsibility to protect the human health safety and well-being as well as the environment we all hold so dear should be encouraged and applauded. I certainly support an often quoted adage on power of local government that those who are closest to the problem can provide the best solutions.

Question: What do you propose to do to accelerate the Superfund program?

Answer: Getting any new program off the ground is a challenge. Effectively implementing a program the size and complexity of Superfund is a truly difficult undertaking. During the last few months, most of the major pieces of this effort have begun to fall into place. The delegations of authority for program responsibility within the Agency have been made. Proposed revisions to the National Contingency Plan have been published. An interim list of high priority sites is in place while we complete preparation of the final list of the top 400 sites. We have arranged for the Corps of Engineers to assume responsibility for managing the cleanup work, and have interagency agreements signed with other Federal agencies who will be providing assistance. Additionally, we have the basic policy guidance for State participation in the program now in place. As I see it, my job is to ensure that no resource or management obstacles will slow our momentum. I will be setting challenging objectives and will closely monitor our progress to ensure they are met. At this point, continual hard work on the part of everyone - EPA, the other Federal agencies, the States, and the private sector - more than anything else, is needed to achieve the goals Congress gave to us in the Superfund Legislation.

Question: Will you, if confirmed, vigorously pursue those liable for abandoned hazardous waste sites cleaned up with Superfund dollars?

Answer: As I outlined to you in my speech and in conversations I have had with you prior to the hearing on March 23rd, I am committed to using "the stick" of CERCLA enforcement provisions as outlined in the Act if necessary. The Office of Solid Waste and Emergency Response has responsibilities in the development of cases under both CERCLA and RCRA. This involves the identification of responsible parties, development and issuance of administrative actions under both statutes and the provision of technical support to case development and litigation. These activities are and will continue to be closely coordinated with the EPA's Office of Enforcement Council.

In addition, the Office of Solid Waste and Emergency Response under CERCLA and RCRA provisions can take "Administrative Order" actions and other actions which strongly encourage compliance but do not necessarily involve litigation. We intend to more strongly pursue these as well as litigation avenues to reinforce our commitment to enforcement of both Acts. Along this line we have planned a conference for March 31st - April 2nd in Kansas City to train our field and

regional teams in how to procedurally develop and pursue these cases, as well as encourage state activities in the enforcement arena. Strong workable regulation and guidance backed by a committed team of implementors is the approach I support.

Question: I think that the Agency has got to be tough on those midnight dumpers and discourage others from illegal dumping. What do you think we can do to be tough? Does the Agency, as you see it, take this tough position? If not, what will you do to pursue the guilty parties?

Answer: With the establishment of a centralized Office of Criminal Enforcement, and the anticipated recruitment of experienced criminal investigators in every Regional office by October 1, 1982, the Agency is taking the basic steps necessary to establish a cohesive, professional criminal investigative capability. While recruiting proceeds, we are moving in several additional directions to provide a credible response to illegal waste disposal activities:

(1) The Agency has developed internal criminal enforcement priorities that place the highest investigative priority on cases of "knowing endangerment" and illegal waste disposal activities. Currently, approximately 40% of the cases on EPA's criminal docket (15 of the 38 criminal cases pending at the Justice Department) involve illegal toxic and hazardous waste disposal activities. This represents a dramatic shift in the last year from the Agency's historical and almost exclusive emphasis on Clean Water Act violations in its criminal referrals.

(2) The Agency has established a joint investigative program with the FBI focussing exclusively on illegal hazardous and toxic waste activities. Since July, 1981, eight investigative referrals have been made to the Bureau. Technical and investigative assistance on these cases will be provided by EPA.

(3) EPA is currently pursuing seven additional toxic waste criminal investigations in conjunction with the Justice Department. These cases were either referred formally by the Agency, or initiated independently by the Justice Department during the past year.

(4) A one-week training program for EPA and FBI investigators was held between March 8th and March 12th, 1982 at the FBI Training Academy in Quantico, Virginia. The subject: hazardous and toxic waste investigations. EPA provided much of the training in this course.

(5) Since July 1981, seventy EPA technical personnel have attended a two and one-half week training program in criminal investigations presented by the Federal Law Enforcement Training Center. Another 60 lawyers and technical personnel are scheduled to attend the same program by July 1, 1982.

Question: We've all heard about the land and water contamination from toxic dump sites and the public concern about adverse health effects caused by living near such dumps. Yet we still look at land disposal of hazardous wastes as an acceptable alternative.

Do you believe that land disposal containment systems can be maintained and made to operate effectively and efficiently for long periods of time?

Are there other treatment or disposal methods that should be utilized for certain categories of extremely toxic or mobile hazardous materials?

How will you, if confirmed, encourage the most appropriate means of treatment or disposal for hazardous wastes? Do you subscribe to the "degree of hazard" approach for handling such wastes?

Answer: Hazardous waste landfills that will be permitted under RCRA are not the same as toxic dump sites of yesterday. Design and operating standards, as well as leachate collection and monitoring equipment have advanced to meet even more stringent performance criteria.

While avoiding the production of hazardous waste through recycling/reclaiming operations, neutralization or process redesign is a better solution to the problem of hazardous waste disposal, it is not always feasible. Fortunately, however, private sector innovation as well as pure market forces have united to afford many new advances in waste disposal technologies. Some of these areas include: pyrolisis - both incineration and kiln processes; detoxification and neutralization of non-burnable wastes; biotreatment and even liner/container technologies.

As Assistant Administrator, I would work to develop a consistent, workable set of performance regulations and guidance to ensure a developing market of waste handling technologies has clear indications of direction. In addition, I would like to work with members of the Senate and House to develop economic incentives e.g. product liability limitations, R&D tax write-offs and accelerated depreciation of capital equipment to enable these emerging technologies to be brought to market in an expeditious manner.

A major component of this direction is the performance criteria which will be entered into the degree of hazard matrix being developed by the Agency. Ideally, development of this tool will afford an excellent survey of available technologies to be used in varying media across a broad spectrum of engineering, environmental, and economic constraints for specific waste streams. It is anticipated that by the end of FY-82 we should be able to use this system to decide and recommend alternative treatment and disposal methods in lieu of land disposal for certain categories of extremely toxic or mobile wastes. I strongly support this approach for a coordinated, well designed examination of degree of hazard and subsequent assignment of risk.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

March 26, 1982

Honorable Jennings Randolph
United States Senate
Washington, D.C. 20510

Dear Senator Randolph:

I very much appreciate the opportunity to address the Committee and to personally respond to your questions and concerns. I am always open to comments and suggestions and will seek to respond promptly to questions the Committee, or you personally, may have about the responsibilities which I will administer.

My responses to your written questions are attached. If you require further clarification of my position on these issues please feel free to contact me.

Sincerly,

Rita Lavelle

Rita M. Lavelle
Assistant Administrator - Designate

Questions from Senator Randolph

Question: Given the availability of funds in the Hazardous Substance Trust Fund, would increased support to the Research and Development program facilitate the Agency's ability to provide technical guidance to Federal, State and local officials as well as evaluating available technologies? Wouldn't this lead to the cleanup of more sites in a more timely fashion?

Answer: I understand that the Office of Emergency and Remedial Response has worked closely with the Office of Research and Development to determine the technical, engineering, and scientific support needs for the Superfund program. An R&D agenda was prepared and is now being implemented. It includes the work considered necessary for evaluating available removal and remedial technologies and will provide the basis for technical guidance to Federal, State, and local officials on a timely basis. Additional support of these R&D efforts would not substantially increase our collective ability to clean sites up in a more timely fashion. However, I would hope we could examine alternatives to create incentive to improve the market availability of current technologies being developed and employed by private enterprise. It is these solutions which, if available, would significantly aid in the cleanup of some sites.

Value Engineering question for Miss Rita Lavelle --- Nomination Hearing as Assistant Administrator for EPA's Superfund and RCRA programs.

Last year, when the Congress reauthorized EPA's sewage plant construction program, it also mandated by statute the performance of Value Engineering review on all projects in excess of $10,000,000 construction costs. EPA has developed a highly effective VE program, and judging from a recent memorandum from Henry Longest II, Director of the Office of Water Program Operations, to all Regional Administrators, Mr. Longest regards the statutory mandate as strengthening the effort to reduce construction costs.

Question: What would be your views concerning a similar mandate, either by regulation or statute, requiring Value Engineering reviews of construction projects under the Superfund program?

Answer: As Program Manager for Superfund, I am interested in all concepts that might result in cost savings for the program and in improvements to our remedial action projects. However, I do not believe that any statute or regulation is required to implement value engineering for Superfund.

Informal discussions with reprosentatives from our Municipal Construction Division confirm the benefits of value engineering. They require value engineering on all projects with an estimated construction cost exceeding $10 million. Their experience has shown potential cost savings of 5% of the cost of construction.

Superfund projects will differ greatly from the design and construction of sewage treatment plants. First, most Superfund projects will cost less than $10 million, with the average cost in the $4 million to $5 million range. Second, the types of projects are substantially different. Many projects will be limited to waste removal and disposal. Options for these projects can be assessed as part of the feasibility study and the cost-effective option selected for implementation. Other projects will require surface drainage controls or subsurface containment barriers where design/construct parameters are dictated by the conditions of the site. Value engineering is not likely to be beneficial for these projects. However, selected sites may require more sophisticated ground water extraction and treatment systems where value engineering may have some benefit. These assessments can only be made on a case-by-case basis.

For sites where EPA will have lead responsibility for implementing the remedial action, the U.S. Army Corps of Engineers will be tasked to manage the design and construction activities. Superfund projects will follow the Corps' standard procedures, including value engineering when it is appropriate.

The remainder of projects financed by Superfund will be done by States under cooperative agreement with EPA. Value engineering can be factored into the cooperative agreement as a condition of award. We will make case-by-case assessments and include value engineering on projects where it is likely to have benefit.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

March 26, 1982

Honorable Daniel P. Moynihan
United States Senate
Washington, D.C. 20510

Dear Senator Moynihan:

I very much appreciate the opportunity to address the Committee and to personally respond to your questions and concerns. I am always open to comments and suggestions and will seek to respond promptly to questions the Committee, or you personally, may have about the responsibilities which I will administer.

My responses to your written questions are attached. If you require further clarification of my position on these issues please feel free to contact me.

Sincerly,

Rita M. Lavelle

Rita M. Lavelle
Assistant Administrator - Designate

Questions from Senator Moynihan

1. Question: On February 25, 1982 the U.S. Environmental Protection Agency announced a proposed rule to allow up to twenty-five percent (25%) of a landfill, by volume, to be used for the disposal of containerized hazardous liquid waste. What is your opinion of the proposed "25% rule"? Do you believe it should become the final rule? Would you suggest that there be any modifications made to the rule as proposed in the Federal Register, Vol. 46, No. 38, February 25, 1982, pgs. 8309-8312?

   Answer: The proposed "25% rule" has some strong merits and a few demerits. It is much easier to implement and enforce than a rule that limits liquids on an individual container basis. It also specifically addresses and regulates the subsidence problem associated with landfilling of containerized wastes. On the negative side , it relys on the average free-liquid content of containers being relatively low to achieve the minimal amount of containerized liquids that EPA deems appropriate to protect human health and the environment. However, the proposal, as written, does not quarantee a low average liquid content. A point on which we specifically asked for comments.

   I believe I should not prejudge the proposal until we have evaluated the public comments. I do believe we should evaluate modifications which could strengthen this rule (e.g remove the principal deficiency noted above). I also believe we should examine other alternatvies, including the interim approach we published on March 22.

2. Question: At the same time that the U.S. EPA issued its proposed liquids in landfills rule the Agency lifted completely for ninety (90) days the prohibition on disposing of containerized liquids in landfills that became effective on November 19, 1981. Did you agree with the Agency's decision to issue such a 90 day interim final amendment? Did you have any substantive or procedural objections to the action?

   Answer: I did not participate in the decision on the 90-day extension. I understand the substantive rational for the 90-day extension and do not believe that it would have led to the indiscriminant dumping of large quantities of liquids in landfills or significant threat to public health. Most containerized wastes are sludges and tars as apposed to liquids. I defer to the attorneys on the procedural aspects of the extension.

3. Question: On March 17, 1982 the Agency issued a new interim rule on the disposal of liquids in landfills? What is your opinion of this rule?

   Answer: I think it is a workable and protective interim rule and one which I think we should consider for a permanant rule in our proposed rulemaking. I might mention that this interim rule is consistant with the recommendation of several States, the Hazardous Waste Treatment Council and others at our March 11 public hearing.

4. Question: When the Agency proposed the "25% rule" it was stated that EPA "continues to believe that certain highly mobile, highly toxic, or carcinogenic liquid wastes should be absolutely prohibited from disposal in landfills". Do you share this belief? As Assistant Administrator for Solid Waste and Emergency Response what actions would you take to ban the dumping of highly mobile, highly toxic or carcinogenic liquid wastes in landfills?

   Answer: Yes. I intend to instruct my staff to begin identifying those hazardous wastes that should not be landfilled and begin to develop regulations to prohibit this practice for such wastes.

Environmental and Public Works Committee
Confirmation Hearings on Rita Lavelle
to Environmental Protection Agency
Testimony submitted by Penny Newman

I am Penny Newman, President of Communities Against Toxic Waste in Landfills, a coalition of community groups throughout California that live near toxic dumps. At present we have 23 member groups and an additional 27 contact groups with whom we work. I personally live next to the Stringfellow Hazardous Waste Site in Riverside, California, which the state has rated as it's most hazardous site.

The appointment of Rita Lavelle that you are considering today is of great concern to us.

Rita Lavelle has held the position of Director Of Communications for the Sacramento based Cordova Chemical Company, a subsidiary of Aero Jet-General Corporation. In September of 1979, a creek running from the Aero Jet property showed high levels of TCE. In December of that year the Regional Water Quality Control Board, the State Department of Health Services, and the State Attorney General filed suit against Aero Jet for violations of the state's water quality and hazardous waste handling laws.

Water wells to the north-west of the site, including a mobile home park, showed contamination by TCE at levels high enough to require abandonment of the wells and conversion to bottled water. They are now connected to the Folsom Water District.

Cordova Chemical Company was discovered to have built a pipeline to circumvent their contained storage pond which would allow wastes to drain off its property. They were subsequently charged with negligently and purposefully polluting surrounding lands.

That litigation is still in progress, along with approximately $100 million in private law suits.

We belive that Rita Levelle's association with this company as Director of communications does not give her the necessary expertise to hold such a crucial position with EPA, nor would it instill any confidence in the agency to whom people look for protection. The fact that Aero-Jet appears on the EPA's list of 115 most hazardous sites in the nation making it eligible for Superfund money, and since implementation of that program would fall under Ms. Levelle's duties, raises the question of a possible conflict of interest. The proposed budget cuts and reduction in staff for EPA in the next year will require extensive administrative ability. Ms. Levelle's background in public relations does not demonstrate any expertise in this area.

I am asking you to help prevent the Environmental Protection Agency from becoming the Industry Protection Agency. Please vote against the appointment of Rita Levelle to EPA.

Penny Newman, President
Communities Against Toxic Waste in Landfills
Concerned Neighbors In Action
9253 Hastings Blvd.
Riverside, California 92509

NEWS FROM THE WASHINGTON OFFICE

SIERRA CLUB

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For Immediate Release — Contact: A. Blake Early

March 23, 1982 — 202-547-1141

LAVELLE NOMINATION OUTRAGES ENVIRONMENTALISTS

"The nomination of Rita Lavelle to administer the Environmental Protection Agency Hazardous Waste and Superfund Programs by the Reagan-Gorsuch Administration demonstrates their total lack of committment to cleaning up hazardous waste," charged A. Blake Early, Washington, Representative of the Sierra Club.

"Her only qualifications appear to be that she worked with President Reagan while he was Governor of California and as the Chief Spokesperson for a company with a dismal environmental record," Early added. "Ms. Lavelle's lack of significant management experience and the appearance of a conflict of interest fits into a pattern of other Reagan appointees," Early continued.

As one of seven Assistant Administrators, Ms. Lavelle would preside over Environmental Protection Agency efforts to regulate the nation's 15,000 hazardous waste dumpsites and the clean-up of over 3,000 abandoned dumps.

Ms. Lavelle was the 'Director of Communications' for the Cordova Chemical Company and Aero-Jet Rocket Fuel Company, both subsidiaries of Aero-Jet General Corporation. Last year, Aero-Jet General Liquid fuel plant in Rancho Cordova, California was cited by Environmental Protection Agency as one of the 40 most hazardous chemical waste dump sites in the nation. In 1979, state officials accused the company of dumping 20,000 gallons a day of hazardous wastes into a swamp and pond.

"It is particulary ironic that her nomination comes in the wake of a proposed budget cut of one third for this part of the agency for fiscal year 1983," Early noted.

Environmental Action Foundation and Lois Gibb's Citizens Clearinghouse on Hazardous Wastes have joined with the Sierra Club in expressing opposition to her appointment. The Environmental Defense Fund has also expressed concern over her appointment.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

March 26, 1982

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

Honorable Robert Stafford
Chairman
Public Works and Environment Committee
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Heard of Mrs. Penny Neuman's testimony before your Committee on March 23 in the matter of my nomination to the office of Assistant Administrator Solid Waste and Emergency Response. I subsequently tried to reach Mrs. Neuman and was unable to reach her. Vic Maerki of your staff is trying to determine an address for her so that I can contact her in order to directly hear her concerns and answer her questions.

However, for your information I would like to provide the following information on the Stringfellow site in California so that you are ensured EPA has not been setting by idly waiting for a responsible party to step forward.

Stringfellow Acid Pits is an owner-abandoned, state licensed, hazardous waste dump site that was sold to the State of California in a tax closeout sale late 1979. In the winter of 1979 and early 1980 the rains created a significant runoff problem which contaminated an underground aquifer. In February 1980 EPA obligated $830,000 of 311 money and took removal actions including dam repairs, liquid waste removal, road maintenance, and berm construction. All of this emergency removal work was completed by March 1980.

The State of California then stepped in and decided it wanted to take charge of the site and name it as its number one Superfund site. We began negotiations in January 1981 and by May signed a cooperative agreement where, again, California would take the lead with EPA Superfund reimbursing for clean-up work based on a 90:10 ratio (as per other state agreements). At the same time we allocated $95,000 to begin an investigation/ feasibility study which was completed by July.

Remedial work was then initiated in two phases--the first to include neutralization and capping of the pits; the second to involve plume abatement. It is anticipated that by mid-April all of phase one will be complete. In accordance with the guidance set forth in the National Contingency Plan on state cooperative agreements, the state and the local Regional Water Control Board plan at that time to hold a public hearing announcing results thus far and outlining plans for phase two. This is consistent with our philosophy on local control and authority on those Superfund sites for which the state wants to assume responsibility.

In short, according to EPA officials in Region IX who I contacted, there is no imminent danger. Progress at the site is good and completion of all work is anticipated very soon. I further asked them to ensure that Mrs. Neuman and her group are invited to the Regional Waste Control Board's public meeting on the situation and that, if necessary, she be privately briefed by Board staff prior to the meeting.

I trust this answers any concern you, your fellow members, and any of their staff might have had with regard to Mrs. Neuman's testimony. It is an excellent example of how straightfoward communication with families near these sites is of paramount importance to the effective implementation of Superfund authorities.

Thank you for the opportunity to respond.

Sincerely yours,

Rita M. Lavelle

Rita M. Lavelle
Assistant Administrator - Designate

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